ANNO SECUNDO

VICTORIÆ REGINÆ.

****

Cap. 12.

An Act for inclosing Lands in the Parish of *Barton* in the County of *Cambridge*. [14th *June* 1839.]

WHEREAS there are within the Parish of *Barton* in the County of *Cambridge* divers Open and Common Fields, Common Meadows, Common Pastures, Commons, and other Commonable and Waste Lands and Grounds, and divers inclosed Lands and Homesteads: And whereas the Provost and Scholars of the *King's College* of *Blessed Mary* and *Saint Nicholas* of *Cambridge*, are or claim to be Lords of the Manor of *Barton Priory* in the said Parish of *Barton*: And whereas the Master or Keeper and Fellows or Scholars of the College of *Corpus Christi* and of *Blessed Mary the Virgin*, commonly called *Bene't College*, in the University of *Cambridge*, are or claim to be Lords of the Manor of *Barton Lancaster* in the said Parish of *Barton*: And whereas the said Provost and Scholars of *King's College*, the said Master or Keeper and Fellows or Scholars of *Corpus Christi College*, the Chancellor, Masters, and Scholars of the University of *Cambridge*, *the* Master or Keeper and Fellows of the College or Hall of *Saint Catherine the Virgin* in the said University of *Cambridge*, the Master or Keeper, Fellows, and Scholars of the College or Hall commonly called *Clare Hall*, in the said University of *Cambridge*, the Master or Keeper, Fellows, and Scholars of the College or Hall of *Mary Valence*, commonly called *Pembroke Hall*, in the said University of *Cambridge*, the Master,

Lords of Manors.

Owners of Lands, &c.

Fellows, and Scholars of *Gonville* and *Caius College* in the said University of *Cambridge*, the Governors for the Charity for the Relief of poor Widows and Children of Clergymen, the Wardens and Commonalty of the Mystery of Mercers of the City of *London*, together with *Deresley Harding* Clerk, *Thomas Hines*, *Wilson Holben*, *Sanders Holben*, *Ann Page*, *Susannah Page*, *David Scott*, *Ivatt Webb*, and divers others Persons, are the Owners or Proprietors of the said Open and Common Fields, Common Meadows, Common Pastures, Commons, and other Commonable and Waste Lands and Grounds, and of the said inclosed Lands and Homesteads, and of ancient Commonable Messuages or Tofts within the said Parish of *Barton*, and in respect thereof or otherwise are or claim to be entitled to certain Rights of Common and other Rights and Interests in, over, and upon the same, or some Part or Parts thereof, or are otherwise interested therein: And whereas an Act was passed in the Forty-first Year of the Reign
41 G. 3. c. 109. of King *George* the Third, 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 an Act was passed in the First and Second Years of the Reign of King *George* the Fourth,
1 & 2 G. 4. c. 23. intituled *An Act to amend the Laws respecting the Inclosure of Open Fields, Pastures, Moors, Commons, and Waste Lands in* England: And whereas the Lands of the several Owners and Proprietors of the Open and Common Fields, Common Meadows, Pastures, and other Commonable Lands and Grounds within the said Parish of *Barton* are greatly intermixed, and lie dispersed in small Parcels, so as to render the Cultivation thereof expensive and inconvenient, and have of late Years been much encroached and trespassed upon, and the same are in their present State incapable of any considerable Improvements, and it would be of great Advantage to the Proprietors thereof and Persons interested therein to have the same divided and inclosed, and specific Parts thereof allotted to the Proprietors thereof according to their respective Rights and Interests therein, and such Allotments held in Severalty, and all Rights of Common in, over, and upon the same respectively extinguished; but the beneficial Purposes aforesaid 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 Queen'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
Recited Acts to form Part of this Act. the same, That the said Two recited Acts, passed respectively in the Forty-first Year of the Reign of King *George* the Third and the First and Second Years of the Reign of King *George* the Fourth, and the several Enactments and Provisions of the said recited Acts, shall from and after the passing of this Act be deemed and taken to be and be applied and executed as Part of this Act for all Purposes and to all Intents whatsoever, except and in such Cases wherein the same recited Acts are hereby respectively repealed or varied, or wherein the same shall by this Act or otherwise become or be inapplicable to any of the Purposes of this Act.

Appointment of Commissioners. II. And be it further enacted, That *Anthony Jackson* of *Barkway* in the County of *Hertford*, Gentleman, and *Thomas Utton* of *Brome* near

near *Scole* in the County of *Suffolk*, Gentleman, and their Successors for the Time being, to be elected or appointed in manner herein-after mentioned, shall be and they are hereby appointed Commissioners for carrying this Act into execution: Provided always, that no Person shall be capable of acting as such Commissioner (except in signing and giving Notice of the First Meeting of the Commissioners, and in receiving the Declaration herein-after directed,) until he shall have made and subscribed a Declaration in the Words or to the Effect following; (that is to say,)

Qualification of Commissioners.

'I *A. B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as a Commissioner by virtue of an Act passed in the Second Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person whomsoever.'

Declaration of Commissioners.

And such Declaration shall be in lieu of and as a Substitution for the Oath or Affirmation required by the said recited Act of the Forty-first Year of the Reign of King *George* the Third to be taken and subscribed by Persons acting as Commissioners in the Execution of any Act for dividing, allotting, or inclosing any Lands or Grounds, and such Declaration, when duly made and subscribed, shall be to all Intents and Purposes as valid and effectual as the Oath or Affirmation in lieu whereof it shall have been so made and subscribed.

Declaration to be in lieu of Oath.

III. And be it further enacted, That if any Person, not having so qualified himself according to the Provisions of this Act to act as a Commissioner, shall presume to act in such Capacity, any such Person shall for every such Offence forfeit and pay the Sum of Fifty Pounds, with full Costs of Suit, to any Person who shall sue for the same, to be recovered, by Action of Debt or on the Case, in any of Her Majesty's Courts of Record at *Westminster* or elsewhere.

Penalty on Persons acting not qualified.

IV. And be it further enacted, That in case the said *Anthony Jackson*, or any Person to be nominated or appointed a Commissioner in his Room or Stead by virtue of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of One Calendar Month to act as such Commissioner in the Execution of this Act, then and in such Case it shall be lawful for the Lords for the Time being of the said Manors of *Barton Priory* and *Barton Lancaster* to nominate and appoint, by Writing under their Common Seals, some fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to be a Commissioner in the Room of the said *Anthony Jackson*, or of the Commissioner who shall be appointed in his Place, and so from Time to Time as often as any Commissioner so to be nominated or appointed by the Lords for the Time being of the said Manors shall die, neglect or refuse or become incapable to act as a Commissioner in the Execution of this Act; and in case the said *Thomas Utton*, or any Person to be nominated or appointed a Commissioner in his Room or Stead by virtue of this Act, shall die, or become incapacitated, or neglect or refuse for the Space of One Calendar Month to act as such Commis-

Appointment of Commissioners on Vacancies.

Commissioner in the Execution of this Act, then and in such Case it shall be lawful for the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being) of the several Proprietors of Lands or Hereditaments within the said Parish of *Barton* (exclusively of the Lords for the Time being of the said Manors of *Barton Priory* and *Barton Lancaster*) who shall attend, either personally or by their respective Agents, at any Meeting to be held for the Election of a new Commissioner by reason of such Death, Refusal, Neglect, or Incapacity as aforesaid, (of which Meeting Notice shall be given by some One or more of the Persons interested in the said Inclosure upon some *Sunday* before Divine Service, by Writing to be affixed on one of the outer Doors of the Parish Church of *Barton* aforesaid, and also by Advertisement to be inserted in the *Cambridge Chronicle* or in some other Newspaper printed or usually circulated in the County of *Cambridge*, at least Fourteen Days before such Meeting,) to nominate and appoint by Writing under their Hands some fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to be a Commissioner in the Room of the said *Thomas Utton*, or of the Commissioner who shall be appointed in his Place, and so from Time to Time as often as any such Commissioner so to be appointed by the major Part in Value of the said Proprietors (exclusive as aforesaid) shall die, neglect or refuse or become incapable to act as a Commissioner in the Execution of this Act.

In case Parties neglect to appoint a new Commissioner, the remaining Commissioner to appoint.

V. Provided always, and be it further enacted, That in case any Person or Parties herein-before enabled and authorized to appoint a new Commissioner shall refuse or neglect to appoint a new Commissioner within the Space of Six Weeks next after Notice of such Death, Neglect, Refusal, or Incapacity as aforesaid shall have been given by some one of the Persons interested in the said Inclosure, to the Person or Parties enabled or authorized to appoint such Commissioner, or by an Advertisement inserted in the *Cambridge Chronicle* or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, and by Writing to be affixed on the principal outer Door of the Parish Church of *Barton* aforesaid upon a *Sunday* immediately before Divine Service, then and so often as the Case shall occur it shall be lawful for the surviving or remaining Commissioner, and he is hereby required, within Three Weeks next after the Expiration of the Time so allowed for appointing such new or succeeding Commissioner as aforesaid, by Writing under his Hand to appoint some other fit and proper Person, not interested in the said Division, Allotment, and Inclosure, to be a Commissioner in the Room of the Commissioner causing such Vacancy as aforesaid, and every new Commissioner so appointed under either of the Powers herein-before given shall have and be invested with the same Powers and Authorities in all respects for carrying this Act into execution, and shall be subject to the same Regulations, as if he had been originally named a Commissioner in this Act; and every such Appointment shall be annexed to and deposited with the Award of the said Commissioners in manner herein-after directed with respect to the said Award.

Umpire appointed.

VI. Provided always, and be it further enacted, That if the Commissioners for the Time being for carrying this Act and the said recited

Acts into execution shall disagree in their Opinion upon any Point or Matter relating to the Execution of this Act or the said recited Acts, *Robert Wright* of the City of *Norwich*, Gentleman, shall be and he is hereby appointed an Umpire to determine the Point or Matter of any such Disagreement in Opinion; and in case the said *Robert Wright* shall die, or become incapacitated, or neglect or refuse to act as such Umpire, it shall be lawful for the Commissioners for the Time being, by Writing under their Hands, at any Meeting to be holden for the Execution of this Act, to appoint some other fit and proper Person (not interested in the said Division, Allotment, and Inclosure,) to be an Umpire in the Place and Stead of the said *Robert Wright*; and in case and when and so often as a Vacancy shall afterwards happen by the Death, Neglect, Refusal, or Incapacity of the Umpire, such Vacancy shall be supplied from Time to Time by the said Commissioners in manner aforesaid; and such Umpire so to be appointed as aforesaid shall have the like Powers and Authorities to act in determining the Point or Matter of any Disagreement in Opinion of the said Commissioners as if he had been hereby and herein named and appointed Umpire; and in case the said Commissioners shall make default in appointing a new Umpire within Fourteen Days next after such last-mentioned Vacancy, the said Commissioners shall as soon as conveniently may be give Notice thereof in the said Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, and by Writing to be affixed on the principal Door of the Parish Church of *Barton* aforesaid upon a *Sunday* immediately before Divine Service, and thereupon it shall be lawful for the major Part in Value of the said Proprietors, (including the Lords for the Time being of the Manors of *Barton Priory* and *Barton Lancaster* aforesaid,) to be ascertained as aforesaid at a Meeting to be holden in like Manner as is herein-before directed with respect to the Meeting to be held for the Appointment of a new Commissioner in the Place of the said *Thomas Utton*, to appoint another Person (not interested in the said Division, Allotment, and Inclosure,) to be an Umpire in the Place and Stead of the said *Robert Wright*, and so from Time to Time as Occasion shall require: Provided always, that no Person shall act as Umpire in the Execution of this Act or the said recited Acts until he shall have made and subscribed a Declaration in the Words or to the Effect following; (that is to say,)

Umpire to make a Declaration.

'I *A. B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire by virtue of an Act passed in the Second Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Favour or Affection, Prejudice or Malice, to any Person whomsoever.'

Which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said County of *Cambridge*, to administer and receive; and the said Declaration so made and subscribed shall be annexed to and deposited with the Award of the said Commissioners.

Commissioners may administer Declaration.

What shall be a Refusal to act.

VII. And be it further enacted, That if either of the said Commissioners shall refuse or neglect to attend the First or Second Meeting appointed to be held for putting this Act in execution, and to qualify himself by making the Declaration in that Behalf prescribed, or if either of the said Commissioners shall at any Time after having qualified himself as aforesaid wilfully absent himself from any Two successive Meetings of such Commissioners, the Times of such Meetings being known to him by his having been present at the Appointment of the first thereof, or by a Notice thereof in Writing under the Hand of the Clerk of the said Commissioners having been given to him or left at his usual Place of Abode, (such Commissioner not being prevented by Sickness or other reasonable Cause to be allowed by the other Commissioner attending such Meetings,) or if any Commissioner to be hereafter elected or appointed as aforesaid shall not attend and qualify himself at the First or Second Meeting to be held after his Appointment, or shall after having qualified himself as aforesaid wilfully absent himself in manner aforesaid, after such Notice and without such Cause of Excuse as last aforesaid, every such Absence or Non-attendance shall be deemed and taken to be a Refusal to act.

Appointment of Surveyor.

VIII. And be it further enacted, That *Alexander Watford* of the Town of *Cambridge* in the County of *Cambridge*, Land Surveyor, or his Successor to be appointed in manner herein-after mentioned, shall be the Surveyor for the Purposes of this Act; and in case the said *Alexander Watford*, or any Person to be appointed in his Stead, shall, before the finishing of the said Division, Allotment, and Inclosure, die, or neglect, refuse, or become incapable to act as such Surveyor as aforesaid, it shall be lawful for the said Commissioners to appoint some fit and proper Person or Persons, not interested in the said Division, Allotment, and Inclosure, to be the Surveyor or Surveyors for the Purposes of this Act, and on every future Vacancy in like Manner to appoint some other fit and proper Person or Persons, not interested in the said Division, Allotment, and Inclosure, as often as there shall be Occasion; and the said Commissioners are hereby authorized and required,

Allowance to Surveyor.

out of the Monies to be raised for defraying the Expences of obtaining and passing this Act, and carrying the same and the said recited Acts into execution, to pay or allow to the said *Alexander Watford*, and his Successors, to be appointed in pursuance of this Act, the Sum of Three hundred and fifty Pounds, and no more, in full Satisfaction for the Time, Trouble, and Expences which he or they shall be put to and incur in surveying, measuring, mapping, and planning the said Lands, or any of the ancient inclosed Lands, or any Part thereof, and also for the Maps or Plans required to be made in pursuance of this Act, and for all Attendances upon the said Commissioners, and for travelling and other Expences of every Description to be incurred by such Surveyor in and about the Execution of this Act or the said recited Acts; and in case any other Person or Persons shall be appointed in pursuance of this Act as Successor or Successors to the said *Alexander Watford*, then the said *Alexander Watford* and his Successor or Successors shall be paid or allowed respectively such Proportions of the said Sum of Three hundred and fifty Pounds as shall be deemed reasonable and proper by the said Commissioners: Provided always, that no Person

Surveyor to make a Declaration.

shall act as Surveyor in the Execution of this Act until he shall have made and subscribed a Declaration in the Words or to the Effect following; (that is to say,)

Declaration of Surveyor.

'I *A. B.* do solemnly declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute and perform the several Powers and Duties vested in and imposed upon me as Surveyor by virtue of an Act passed in the Second Year of the Reign of Her Majesty Queen *Victoria*, intituled [*here set forth the Title of this Act*], according to Equity and good Conscience, and without Partiality, Favour, or Affection, Prejudice, or Malice, to any Person whomsoever.'

Commissioners may administer Declaration.

Which Declaration it shall be lawful for any Commissioner for the Time being, or any Justice of the Peace for the said County of *Cambridge*, to administer and receive; and the said Declaration so made and subscribed shall be annexed to and deposited with the Award of the said Commissioners.

Penalty on making a false Declaration.

IX. And be it further enacted, That any Person making and subscribing a Declaration under the Authority of this Act, and who shall wilfully and corruptly make and subscribe such Declaration, knowing the Allegations thereof or any of them to be untrue, shall be subject to the like Pains and Penalties to which Persons guilty of a Misdemeanor are or may be subject.

Appointment of Clerk.

X. And be it further enacted, That it shall be lawful for the said Commissioners to appoint a Clerk to assist them in carrying this Act into execution, and from Time to Time to remove such Clerk, and to appoint another in his Stead.

Allowance to Commissioners, Umpire, and Clerk.

XI. And be it further enacted, That out of the Monies which shall be raised for defraying the Expences of obtaining and passing this Act, and carrying the same into execution, there shall be paid to each of the Commissioners who shall act in the Execution of this Act the Sum of One hundred and eighty-nine Pounds, and no more; and to the Umpire, and to the Clerk to the said Commissioners, the Sum of Three Pounds and Three Shillings, and no more, for each Day they shall respectively travel or be engaged in any Business relating to the Execution of this Act, or of any of the Powers hereby vested in such Commissioners, during the first Three Years next after the passing of this Act, and after the Expiration of the said Three Years, until the Powers granted by this Act shall be fully executed and performed, the Sum of Two Pounds and Two Shillings, and no more, for each and every Day that such Umpire and Clerk shall be respectively employed as aforesaid; which said Sums of One hundred and eighty-nine Pounds so to be paid to each of the said Commissioners as aforesaid, and the said Sums of Three Pounds and Three Shillings, or Two Pounds and Two Shillings, as the Case may be, so to be paid to the said Umpire and Clerk respectively for each Day they shall be so respectively employed as aforesaid, shall be in full Satisfaction for the Time and Trouble of the said Commissioners, Umpire, and Clerk respectively, and for the several Expences which they may incur during their several Journeys and Attendances in the Execution of this Act, other than and except

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the Expences for the Use of the Rooms in which the Meetings shall be held for carrying this Act into execution, and the Costs and Expences of drawing, preparing, copying, engrossing, proclaiming, and enrolling the Award of the said Commissioners, and of Notices and Advertisements, and all other proper and necessary Expences: Provided nevertheless, that in case either of such Commissioners shall die, or become incapacitated, or neglect or refuse for the Space of One Calendar Month to act in the Execution of this Act before the same shall be carried into full Effect, a Part and fair Proportion only of the said Sum of One hundred and eighty-nine Pounds shall be paid to such Commissioner so becoming incapacitated, or neglecting or refusing to act as aforesaid, or to the Representatives of such Commissioner so dying, according to the Time he or they shall have acted as Commissioner or Commissioners, and the new or succeeding Commissioner or Commissioners, who may be appointed under the Powers of this Act, shall be paid or allowed such a Sum or Sums of Money as shall be agreed upon between them respectively and the major Part in Value (such Value to be ascertained by the Land Tax Assessment for the Time being,) of the several Proprietors of Lands or Hereditaments within the said Parish.

For regulating the Duration of Meetings of the Commissioners.

XII. And for regulating the Duration of all Meetings to be held for the Purposes of this Act, be it enacted, That a Day shall be deemed to consist of Eight Hours at all Meetings to be held between the Twenty-fifth Day of *March* and the Twenty-ninth Day of *September*, and of Six Hours between the Twenty-ninth Day of *September* and the Twenty-fifth Day of *March*, and that any Meeting to be held for the Purposes of this Act of less Duration than Eight or Six Hours (as the Case may be) shall be charged as only Half a Day, and the said Clerk and Umpire shall be paid accordingly; and a Book shall be kept by the said Commissioners or their Clerk in which shall be entered the several Days on which the said Commissioners shall hold their Meetings, and in such Book shall also be entered at what Hour the said Commissioners and Clerk were respectively present at such Meeting, and at what Hour they respectively left the same; and such Book shall be signed by the said Commissioners at the Termination of each Meeting, and shall be open to the Inspection of all Persons interested in the said Division, Allotment, and Inclosure, or their Agents or Attornies, during all the Meetings to be held in pursuance of this Act, and all such Persons may take Copies of or Extracts from such Book without paying any thing for the same: Provided always, that it shall not be lawful for the said Commissioners to retain or pay themselves or the said Clerk, out of any Monies to be received by them, or over which they may have any Control, by virtue of this Act, any Money on account of the Allowance herein-before directed to be made to such Commissioners or to the said Clerk respectively beyond One Third of the Allowance to which they shall be respectively entitled as aforesaid, until after the Expiration of Six Calendar Months from the Day of the Date of the Award to be made in pursuance of this Act, or in case the Accounts of the said Commissioners shall be appealed against, then not until such Appeal shall have been heard and decided: Provided nevertheless, that in case of the Decease of either of the said Commissioners, or of the said Clerk, previous

previous to the Execution of the said Award, the Commissioners for the Time being shall, after the Expiration of the Period allowed for Appeal against the Accounts herein-after directed to be made and stated, pay to the Executors or Administrators of such deceased Commissioner or Clerk such Sum as shall appear by the said Accounts to be due to such deceased Commissioner or Clerk.

Proprietors to pay their own Expences at Meetings.

XIII. Provided always, and be it further enacted, That the several Persons interested in the said Division, Allotment, and Inclosure, and their respective Agents, shall pay their own Expences whenever they shall attend any of the Meetings to be held in pursuance of this Act.

Proceedings to be entered in a Book.

XIV. And be it further enacted, That all the Orders, Proceedings, and Determinations of the said Commissioners at any Meeting to be held in pursuance of this Act shall be entered in a Book to be provided for that Purpose, which Book shall be open to the Inspection of all Parties interested during the Progress of the Inclosure, and shall be left with the Clerk for that Purpose, and such Book shall be signed by the said Commissioners, and being so signed shall be deemed and taken to be Originals; and all such Books shall be deposited with and kept by the Clerk to the said Commissioners, and shall and may be read as Evidence in all Cases of Appeals, Suits, Actions, and other Proceedings touching any Matter or Thing done in pursuance of or in relation to this Act.

Meetings, and Notices thereof.

XV. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given by Advertisement thereof in the Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, and also by affixing the same upon some principal outer Door of the Parish Church of *Barton* aforesaid on some *Sunday* before Divine Service, of the Time and Place of their First and every subsequent Meeting for the Execution of this Act, Seven Days at least before any such Meeting shall be held (Meetings by Adjournment only excepted); and the said Commissioners shall and may from Time to Time adjourn any such Meetings as they may see Occasion for the efficient Execution of this Act; and if at the Time and Place appointed for any such Meeting the Commissioners shall not attend it shall be lawful for the Clerk to the said Commissioners to adjourn such Meeting to some future Period, not exceeding Twenty-one Days from the Day of such Adjournment, then to be held at the Place from which such Adjournment was made, giving timely Notice thereof to the said Commissioners: Provided always, that all Meetings of the said Commissioners for executing this Act shall be held within the said Parish of *Barton*, or within Eight Miles thereof.

Other Notices how to be given.

XVI. Provided always, and be it further enacted, That all other Notices necessary to be given by the said Commissioners (the Mode of giving which is not hereby particularly directed) shall be given by Advertisement to be inserted in the said Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, or by Writing to be affixed on some principal outer Door of the Parish Church of *Barton* aforesaid,

aforesaid, and all Notices so given shall be deemed sufficient Notices to all Persons concerning all Matters and Things to which such respective Notices shall relate, any thing in the said first-recited Act contained to the contrary notwithstanding.

Claims to be delivered to the Commissioners.

XVII. And be it further enacted, That all Persons claiming any Estate, Right, or Interest in, over, upon, or to any Lands and Grounds in the said Parish of *Barton* hereby authorized to be divided, allotted, and inclosed, or exonerated from Commonable or other Rights, under or by virtue of this Act, shall and they are hereby required, by themselves or their Agents, to deliver their respective Claims in Writing under their Hands, or the Hands of their Agents, unto the said Commissioners at such Meetings as shall be held by the said Commissioners for that Purpose, distinguishing in such Claims the several Particulars in respect whereof the Claims are made, and the Freehold, Copyhold, and Leasehold Property from each other, and within what Manor the same Property and Rights are situate, and no such Claim shall be received by the said Commissioners after the last Meeting to be held for that Purpose after due Notice thereof given, and which shall be so expressed therein, (except for some special Cause to be allowed by the said Commissioners,) and all such Claims shall be open for the Inspection of all Persons concerned and shall be left with the Clerk for that Purpose; and after the said Claims shall be so received the said Commissioners shall cause public Notice to be given on a *Sunday* by affixing such Notice on some principal outer Door of the Parish Church of *Barton* aforesaid, and shall in such Notice appoint a Time (at least Twenty Days distant) and also a Place when and where all Parties concerned may appear before them and show Cause for or against the Allowance or Disallowance of the said Claims, and at such Meeting the said Commissioners shall proceed to examine into and settle and determine the same, and shall make such Order therein as to them shall appear just and equitable; and in case any Doubts or Difficulties shall arise respecting such Claims, or any Disputes or Differences shall happen between any of the said Proprietors touching their respective Rights or Claims, or touching the respective Shares which they or any of them ought to have in the Allotment hereby intended to be made, the said Commissioners shall and they are hereby required, by Examination of Witnesses upon Oath (which Oath the said Commissioners are hereby empowered to administer), and by such other Evidence, Inquiry, and Satisfaction as to them shall seem proper, to hear and determine the same, and shall make such Order therein as to the said Commissioners shall appear equitable and just, which said Order shall be final and conclusive, unless any Party shall be Dissatisfied with the Determination of the said Commissioners, and shall proceed to try his Rights by an Issue at Law as hereafter mentioned, any thing herein contained to the contrary thereof in anywise notwithstanding.

Tofts to be deemed Commonable Messuages.

XVIII. And be it further enacted, That all Tofts, Foundations, or Sites of ancient Commonable Messuages or Cottages in the said Parish of *Barton* shall, upon Proof being made to the Satisfaction of the said Commissioners that Commonable Messuages or Cottages formerly stood thereon, be considered and deemed as Commonable Messuages

or

or Cottages, and the respective Owners or Proprietors thereof shall be entitled to the same Compensation for the respective Rights of Common originally belonging thereto as if such Messuages or Cottages were still standing.

Commissioners not to determine Titles contrary to Possession.

XIX. Provided always, and be it further enacted, That nothing in this Act contained shall authorize the said Commissioners to determine the Title to any Lands, or to determine any Right between any Parties contrary to the actual Possession of any of such Parties, (except in respect of Encroachments as herein-after mentioned,) but in case the said Commissioners shall be of opinion against the Right of the Party so in Possession they shall forbear to make any Determination thereon until the Possession shall have been given up by such Party, or have been recovered from such Party by due Course of Law.

Persons summoned by the Commissioners and refusing to give Evidence may be punished.

XX. And be it further enacted, That if any Person, having been summoned to testify the Truth upon Oath touching any Matter in difference between any of the Parties interested in the Premises, or otherwise, relating to the Execution of this Act, and having been paid or tendered a sufficient Sum of Money, to be ascertained by the said Commissioners, to defray the Charges of his Attendance, shall not appear before the said Commissioners pursuant to such Summons, without assigning some reasonable Excuse for not appearing, or appearing shall refuse to be sworn or to be examined and give Evidence touching the Premises, the said Commissioners, upon Proof thereof made before them upon Oath (which Oath the said Commissioners are hereby empowered to administer), shall and they are hereby authorized, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to appear or to be sworn and give Evidence, rendering the Overplus (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges of such Distress and Sale, and the Money so to be levied as aforesaid shall be considered as Part of the Monies which are hereby directed to be raised for defraying the Costs and Expences of obtaining this Act and carrying the same into execution, and shall be applied accordingly.

Commissioners to award Costs.

XXI. And be it further enacted, That in case the said Commissioners, upon the hearing and determining of any Claim or Objection to be delivered to them in pursuance of this Act, shall see Cause to award any Costs, it shall be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to assess and award such Costs and Charges as they shall think reasonable to be paid to the Person in whose Favour any Determination of the said Commissioners shall have been made by the Person whose Claim or Objection shall have been thereby disallowed; and in case any Person liable to pay such Costs and Charges shall refuse or neglect to pay the same, upon Demand, the said Commissioners shall and they are hereby required, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause such Costs and Charges

Charges to be levied by Distress and Sale of the Goods and Chattels of the Person so refusing or neglecting to pay the same, rendering the Overplus (if any), upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting all Expences attending such Distress and Sale; or if there be no Goods or Chattels whereon to levy such Costs and Expences as aforesaid, it shall be lawful for the Person in whose Favour such Costs and Charges shall be awarded to recover the same by Action of Debt or on the Case, in which Action it shall be sufficient for the Plaintiff to declare that the Defendant is indebted to him in the Sum specified in the Order of Adjudication made by the said Commissioners in consequence of such Order, without setting forth any other Proceedings under this Act.

Parties dissatisfied authorized to try their Rights at Law.

XXII. Provided always, and be it further enacted, That if any Person interested or claiming to be interested in the said Division, Allotment, and Inclosure shall be dissatisfied with any Determination of the said Commissioners concerning any Claim of any Right or Interest in, over, upon, or to the Lands or Grounds hereby authorized to be divided, allotted, and inclosed, or exonerated from Commonable or other Rights, or concerning any Objection to such Claim, it shall be lawful for such Person to bring an Action upon a feigned Issue against the Person in whose Favour such Determination shall have been made, within Three Calendar Months next after such Determination shall have been notified in Writing to the Person against whom such Determination shall have been made, or to his known Agent, and thereupon the Person so dissatisfied may proceed to a Trial at Law at the then next Assizes, or at the Assizes immediately following such next Assizes, which may be holden for the said County of *Cambridge* after such Action shall have been commenced; and the Defendant in such Action shall and he is hereby required, upon being served with the usual Process therein, to appear and plead thereto, or file Common Bail, and accept One or more Issue or Issues, whereby such Claim, and the Right, Property, and Interest thereby insisted on, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which such Action shall be commenced, in case the Parties shall differ about the same); and the Verdict which shall be given upon the Trial of such Action shall be binding and conclusive upon all the Parties thereto, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall be lawful for the Court to do, and also upon sufficient Cause shown to put off the Trial of such Issue or Issues; and after such Verdict shall be given, and final Judgment obtained thereon, the said Commissioners shall act in conformity thereto, and allow or disallow the Claim thereby determined according to the Event of such Trial; and the Costs attending such Action shall abide the Event of the respective Trials of such Issue or Issues: Provided always, that if no such Action shall be commenced, or the Plaintiff therein shall not proceed to Trial, within the Time herein-before limited for that Purpose, then the Determination of the said Commissioners shall be binding and conclusive to all Intents and Purposes whatsoever.

If no Action brought within Time limited, Determination of Commissioners to be final.

Deaths of Parties not

XXIII. And be it further enacted, That if any Person, Plaintiff or Defendant in any Action to be brought as aforesaid, shall die pending

the same, such Action shall not abate by reason thereof, but may be proceeded in as if no such Death had happened; and if any Person in whose Favour any such Determination as aforesaid shall have been made, and against whom any such Action might have been brought if living, shall die before any such Action shall have been brought, and before the Expiration of the Time herein-before limited for bringing the same, it shall be lawful for the Person who might have brought such Action to bring the same within the Time so limited as aforesaid against such Person as if actually living, and to serve the said Commissioners or their Clerk with the usual Process for commencing such Action in the same Manner as the Person so dead might have been served therewith if living, and it shall thereupon be incumbent on such Clerk to serve with such Process the Heir or Devisee, or personal Representative of the Person so dead, or other the Person who shall claim the Benefit of such Determination as aforesaid, and on such Process being served, such Heir or Devisee or personal Representative or other Person shall appear and defend such Action in the Name of the Person so dead, and Proceedings shall be had thereon in the same Manner as if such Person had been living, and the Rights, Interests, and Claims of all Parties shall be equally bound and concluded by the Event of such Action which shall be so brought or continued as aforesaid, as if the Death of any of the Persons interested therein had not occurred.

to abate Proceedings.

In case Parties die before Action brought, Suits to be carried on and defended in their Names.

XXIV. Provided always, and be it further enacted, That if any Person interested in the said Division, Allotment, and Inclosure shall die before the same shall have been completed, the Powers and Authorities hereby vested in the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the Execution of the Powers and Authorities so vested in them in such Manner as they might have done in case such Person had not died, and the Share of the Person so dying shall be allotted to such Person as by Law shall become entitled to the same, and shall be accepted and fenced by such Party according to the Directions of this Act, and he shall be liable to the Charges and Expences and other Conditions of this Act.

If Parties die before Inclosure, &c. is completed, Allotments to be made to their Representatives.

XXV. And be it further enacted, That it shall be lawful for the said Commissioners, at such Time as they shall think proper, and before the Execution of their Award, by Notice in Writing under their Hands, to be affixed on some principal outer Door of the Parish Church of *Barton* aforesaid on some *Sunday* previous to Divine Service, to order and direct all or any Part of the Rights of Common or other Rights in, over, or upon the Lands or Grounds hereby authorized to be divided allotted, and inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Notice; and from and after the Time mentioned in such Notice all such Rights as shall be thereby directed to be extinguished shall be extinguished or the Exercise thereof suspended accordingly (any Law, Usage, or Custom to the contrary notwithstanding); and if during the Suspension or after the Extinguishment of any such Rights of Common or other Rights as aforesaid any Owner or Occupier of Land, or of any Commonable Messuage or Cottage, or the Site of any Commonable Messuage or Cottage within the said Parish,

Commissioners empowered to suspend or extinguish Rights of Common.

Penalty on Breach of Commissioners Order.

Parish, or any other Person, shall permit his Cattle or Sheep to go, depasture, or feed upon any of the Lands or Grounds over which such Rights of Common or other Rights shall be suspended or extinguished as aforesaid, it shall be lawful for the said Commissioners, or any other Person by their Order (testified in Writing under their Hands), and also for any other of the said Owners or Occupiers, to distrain such Cattle or Sheep being upon such Lands or Grounds contrary to such Order, and to impound the same until the Person so offending shall pay to the Person so distraining such Sum of Money as the said Commissioners shall by Writing under their Hands, to be delivered to or left at the Place of Abode of the Person whose Cattle or Sheep shall be so distrained, order and direct, not exceeding the Sum of Ten Shillings for each Head of Cattle, and not exceeding the Sum of Five Shillings for each Sheep, so distrained; and in case the same shall not be paid within Seven Days after the Delivery of such Writing, the said Commissioners are hereby authorized, upon Proof of such Offence having been committed, and of Nonpayment of the Penalty hereby imposed, to cause the Cattle or Sheep so distrained or impounded, or such of them as they shall think necessary, or any other Goods or Chattels of the Person so offending, to be sold for the Purpose of raising and paying the Penalty aforesaid, together with the Costs and Charges attending such Distress, and the Surplus (if any) shall be paid to the Owner of such Cattle or Sheep.

For shortening Boundaries.

XXVI. And be it further enacted, That for the Purpose of shortening or rendering straight any Boundary Fences between the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed, and the old inclosed Lands in the said Parish of *Barton*, or between such Allotments and inclosed Lands, or any of them, and any adjoining Lands and Grounds, it shall be lawful for the said Commissioners (with the Consent of the Lords of any Manor in which the Lands are respectively situate, and of the Owners of any such adjoining Lands, testified by Writing under their respective Hands, or under the Common Seal of any of them being a Corporation Aggregate,) to set out, ascertain, and determine the Boundaries between the Lands by this Act authorized to be divided, allotted, and inclosed, and any adjoining Lands or Grounds, lying in the same or in any adjoining Manor, as they shall judge proper for the Purposes aforesaid; and after such Boundaries shall have been so set out, ascertained, and determined as aforesaid, the same shall be made, fenced, ditched, or mounded by such Person, in such Manner, and at such Times as the said Commissioners shall direct, and shall for ever thereafter be deemed the Boundaries between the said allotted and inclosed Lands respectively, or (as the Case may be) between the said Allotments or inclosed Lands and such adjoining Manor, any Law, Usage, or Custom to the contrary notwithstanding.

Commissioners to set out Drains, and enlarge and turn Watercourses.

XXVII. And be it further enacted, That it shall be lawful for the said Commissioners to set out, appoint, and make such common Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, of such Size, Extent, and Form, and in such Situations, as the said Commissioners shall deem necessary, in, through, over, and upon the Lands and Grounds hereby authorized to be divided, allotted, and inclosed,

inclosed, and also to enlarge, widen, turn, scour, and cleanse, or alter the Course of and improve, any of the present Drains, Ditches, Streams, or Watercourses, Banks and Bridges, as well in, through, and over the same Lands and Grounds, as also in, through, and over any ancient Inclosures or other Lands and Grounds within the said Parish of *Barton* as the said Commissioners shall deem necessary (making such Satisfaction to the Proprietors of such ancient Inclosures or Lands and Grounds for the Damage done thereby as the said Commissioner shall think fair and equitable); and the Costs and Expences of making and enlarging, widening, altering, turning, scouring, and cleansing of such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges, when the same shall be first made and done in pursuance of this Act, if not otherwise discharged or provided for, shall be raised and levied by the said Commissioners in the same Manner and by the same Means as the other Costs and Expences of carrying this Act into execution; but all such Ponds, Drains, Ditches, Streams, Watercourses, Tunnels, Banks, and Bridges shall at all Times afterwards be repaired, cleansed, scoured, and maintained by such Persons and in such Manner as the said Commissioners shall in and by their said Award order and direct; provided that no Stream or Watercourse be diverted or turned without the Consent in Writing of the Person from whose Lands the same may be diverted, and of the Persons into whose Lands the same may be turned, or to the Prejudice or Injury of any Person interested in such Stream or Watercourse, except with his Consent in Writing.

Power to widen Roads, making Compensation to Land Owners.

XXVIII. And be it further enacted, That the said Commissioners may and they are hereby authorized to widen any of the public Roads or Highways where they shall think it necessary within the said Parish of *Barton*, and for that Purpose to take a sufficient Quantity of the ancient inclosed Lands and Grounds adjoining such Roads (the same not being a Yard, Garden, Orchard, Park, Paddock, Plantation, or Avenue to any House), and to make a full Compensation for the Value of the Land or Ground so to be taken for the widening of such public Roads or Highways in Money, or by allotting and awarding unto the Person or Persons from whom any such inclosed Land or Ground shall be so taken an adequate Part or Parts of the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, and also to make good and substantial Fences on each Side of all such widened public Roads and Highways, for and in lieu of the Fences which shall be injured or destroyed by means of such widening.

Power to stop up Roads.

XXIX. And be it further enacted, That in setting out and appointing the several public Carriage Roads, Highways, Bridle Roads, and Footpaths, in pursuance of this Act or of the first-recited Act, the said Commissioners shall and they are hereby authorized and empowered, if they shall think it necessary or proper, with the Consent and under the Order in Writing of any Two Justices of the Peace for the County of *Cambridge*, to discontinue, stop up, divert, turn, or alter any of the Carriage Roads, Highways, Bridle Roads, or Footpaths passing or leading through or over any of the Lands or Grounds intended to be divided and allotted by virtue of this Act, or passing

or

or leading through or over any of the old Inclosures within the said Parish of *Barton*; and the Soil of such of the Roads and Ways so to be discontinued and stopped up as pass or lead through allottable Lands shall be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act: Provided always, that nothing herein contained shall authorize the altering or diverting of any Turnpike Road leading through the said Parish of *Barton*, unless the Consent of the Majority of the Trustees of such Turnpike Road assembled at a public Meeting called for that Purpose on Ten Days Notice be first had and obtained.

Proceedings previously to stopping up and diverting Roads.

XXX. Provided always, and be it further enacted, That before any public Carriage Road, Highway, Bridle Road, or Footpath shall be discontinued, diverted, stopped up, or altered by the said Commissioners, or any such Order of Two Justices of the Peace as herein-before mentioned shall be made, the said Commissioners shall cause to be affixed at each End of the public Carriage Road, Highway, Bridle Road, or Footpath so proposed to be discontinued, diverted, stopped up, or altered, a Notice to the Effect that such public Carriage Road, Highway, Bridle Road, or Footpath is intended to be discontinued, stopped up, diverted, or altered, as the Case may be, by the said Commissioners acting under or by virtue of this Act, and the said Commissioners shall also cause the same Notice to be inserted in One Newspaper published or generally circulated in the said County of *Cambridge* for Four successive Weeks, and shall also cause a like Notice to be affixed on some principal outer Door of the Church of the said Parish of *Barton* on the Four *Sundays* of the said Four successive Weeks; and after the said several Notices shall have been so affixed and published as aforesaid, and after such Order as herein-before mentioned shall have been made, the said public Carriage Road, Highway, Bridle Road, or Footpath shall be and be deemed to be discontinued, stopped up, diverted, or altered, as the Case may be, subject however to such Appeal to the Court of General Quarter Sessions for the County of *Cambridge* as is herein-after mentioned.

Persons who may think themselves aggrieved if such Road should be ordered to be stopped up or diverted may appeal.

XXXI. Provided also, and be it further enacted, That it shall be lawful for any Person who may think that he would be injured or aggrieved if any such Carriage Road, Highway, Bridle Road, or Footpath should be discontinued, stopped up, diverted, or altered, as the Case may be, within Four Months after the making of the said Order, to make his Complaint thereof by Appeal to the Justices of the Peace at the said Quarter Sessions, upon giving to the said Commissioners or their Clerk Ten Days Notice in Writing of such Appeal, together with a Statement in Writing of the Grounds thereof: Provided also, that it shall not be lawful for the Appellant to be heard in support of such Appeal unless such Notice and Statement shall have been so given as aforesaid, nor on any Hearing of Appeal to go into or give Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

In case of Appeal, Jury at Sessions to determine

XXXII. And be it further enacted, That in case of such Appeal the Justices at such Quarter Sessions shall, for the Purpose of determining whether the said public Carriage Road, Highway, Bridle Road,

or Footpath so intended to be discontinued, stopped up, diverted, or altered, shall be discontinued, stopped up, diverted, or altered, or whether the Party appealing would be injured or aggrieved, impannel a Jury of Twelve disinterested Men out of the Persons returned to serve as Jurymen at such Quarter Sessions, and if after hearing the Evidence produced before them the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so intended to be discontinued, stopped up, diverted, or altered is unnecessary, or may beneficially to the Public be discontinued, stopped up, diverted, or altered, and that the Party appealing would not be injured or aggrieved, then the said Court of Quarter Sessions shall dismiss such Appeal, and in that Case the said Court of Quarter Sessions shall award the Costs and Expences of resisting the said Appeal to be paid by the Party appealing to the said Commissioners, and the same shall be recoverable from the said Party in such and the same Manner as any Penalties and Forfeitures are recoverable under the said recited Act of the Forty-first Year of the Reign of King *George* the Third; but if the said Jury shall return a Verdict that the public Carriage Road, Highway, Bridle Road, or Footpath so to be discontinued, stopped up, altered, or diverted is not unnecessary, or that the same could not beneficially to the Public be so discontinued, stopped up, diverted, or altered, or that the Party appealing would be injured or aggrieved by such public Carriage Road, Highway, Bridle Road, or Footpath being so discontinued, stopped up, diverted, or altered, as the Case may be, the said Court of Quarter Sessions shall allow such Appeal, and such public Carriage Road, Highway, Bridle Road, or Footpath shall not be discontinued, stopped up, diverted, or altered; or in case the same shall have been discontinued, stopped up, diverted, or altered, the said Court shall make an Order for restoring such public Carriage Road, Highway, Bridle Road, or Footpath to its original State; and in that Case the said Court of Quarter Sessions is hereby authorized and required to award to the Party giving Notice of Appeal such Costs and Expences as shall be incurred in prosecuting such Appeal, and such Costs and Expences shall be paid by the said Commissioners, and shall be raised by the said Commissioners in such and the same Manner as they are hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

whether old Highway shall be discontinued.

XXXIII. And be it further enacted, That the Charges and Expences attending the stopping up, discontinuing, diverting, and altering of such Roads, and the Money Compensation in respect thereof, shall be raised in such and the like Manner as the Expences of obtaining and executing this Act are hereby directed to be raised.

Expences of discontinuing or widening Roads provided for.

XXXIV. And be it further enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the said County of *Cambridge* shall, under their Hands and Seals, certify any of the public Carriage Roads to be set out in pursuance of this Act to be fully and sufficiently formed and completed, such Roads shall thenceforth be supported and kept in repair by such Persons and in such Manner as the public Roads within the said Parish of *Barton* are or ought by Law to be amended and kept in repair; and every such Certificate shall, at the General or Quarter Sessions of the Peace to be holden

Justices may declare any of the Carriage Roads completed.

holden for the said County of *Cambridge* next after the Date thereof be filed of Record by the Clerk of the Peace for the said County, and be valid and effectual to all Intents and Purposes.

Commissioners to appoint private Roads.

XXXV. And be it further enacted, That the said Commissioners shall and they are hereby empowered and required to set out and appoint such private Roads, Bridle Ways, and Footways through and over the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as they shall think requisite, giving such Notice and subject to such Examination as is required by the said herein-before recited Act of the Forty-first Year of the Reign of King *George* the Third in the Case of public Roads; and any Charges and Expences which the said Commissioners may think fit to incur or direct to be incurred, prior to the Time of making their Award, relative to the setting out or the Formation or Completion of such private Roads, Bridle Ways, and Footways, or any of them, shall be raised in like Manner as the Charges and Expences of obtaining and passing this Act and carrying the same into execution are directed to be raised; and the said private Roads, Bridle Ways, and Footways shall thereafter be made, supported, and kept in repair by and at the Expence of the Owners and Proprietors for the Time being of any of the Lands and Grounds within the said Parish of *Barton* in such Shares and Proportions and in such Manner as the said Commissioners shall in and by their Award order and direct, or by the Inhabitants of the said Parish, in such Manner as the public Roads within the same are by Law liable to be supported and kept in repair, if the said Commissioners shall by their Award so direct.

For apportioning the Expences of Roads and Drains in the Hamlet of Whitwell.

XXXVI. And whereas a certain Part of the said Parish of *Barton* is called and known by the Name of the Hamlet of *Whitwell*, and from the Situation thereof the Costs, Charges, and Expences of forming and making the Roads and Drains necessary for the same may be of less proportionate Amount than the Costs, Charges, and Expences of forming and making the Roads and Drains necessary for the Remainder of the said Parish; be it therefore further enacted, That a distinct and separate Account of such respective Costs, Charges, and Expences shall be kept by the said Commissioners, and shall be by them assessed and rated in manner following; (that is to say,) all such Costs, Charges, and Expences as shall be incurred in forming and making the Roads and Drains in the said Hamlet of *Whitwell* shall be paid, borne, and defrayed by the respective Proprietors of Lands lying within the said Hamlet, and hereby directed to be allotted and divided in such Proportions as the said Commissioners shall determine; and all such Costs, Charges, and Expences as shall be incurred in forming and making the Roads and Drains necessary for the Remainder of the said Parish of *Barton* shall be paid, borne, and defrayed by the respective Proprietors of Lands lying in the Remainder of the said Parish, and hereby intended to be allotted and divided in such Proportions as the said Commissioners shall determine, and shall be raised by the said Commissioners in such and the same Manner as they are hereby directed or empowered to raise the Money for discharging the Costs, Charges, and Expences of this Act.

XXXVII. And

Encroachments to be attached.

XXXVII. And be it further enacted, That all Encroachments and Inclosures which shall have been made or taken by any Person from or upon any Part of the said Lands hereby authorized to be divided, allotted, and inclosed within Twenty Years next before the passing of this Act, whether any Amerciament, annual Rent, or any Money Payment or Acknowledgment hath or hath not been paid for or in respect of the same, to or for the Use of the Lord of the Soil or any other Person whomsoever, shall be deemed Part and Parcel of the Lands by this Act authorized to be divided, allotted, and inclosed, and shall be divided, allotted, and inclosed accordingly by virtue of this Act: Provided always, that in case any Question or Dispute shall arise touching any such Encroachments or Inclosure, or the Extent or Duration thereof, such Question or Dispute shall be referred to and be determined by the said Commissioners; provided also, that it shall be lawful for the several Persons who shall be in Possession of such Encroachment or Inclosure, or in the Receipt of the Rent thereof at the Time of the passing of this Act, to take down, remove, and carry away all such Buildings, Fences, and other Erections as shall then be on such Encroachment and Inclosure respectively, and to convert the same and the Materials thereof to their own Use, without any Interruption from the said Commissioners.

Certain Encroachments may be allotted to the Persons in possession.

XXXVIII. Provided always, and be it further enacted, That if any Encroachments shall have been made from the Waste or Common Lands hereby directed to be inclosed within Twenty Years next before the passing of this Act, upon which any Buildings or Improvements shall have been made, then and in such Case the said Commissioners shall and they are hereby required to allot and award such Encroachments or Inclosures, or such Part thereof as aforesaid, to the Person who shall at the Time of making the Award be in Possession thereof, or in the Receipt of the Rents thereof, provided such Person shall be willing to purchase the same; and in every such Case the said Commissioners shall ascertain and fix the Price thereof, and such Price shall be ascertained without Regard to the Value of any Improvement which may have been made thereon, and be regulated by the Value of the Land only, and that at so much *per* Acre as the same shall in the Estimation of the said Commissioners be worth, having reference to the State of the Waste or Common Lands next adjoining; and upon such Person paying such Price to the said Commissioners at such Time as they shall appoint for that Purpose, and taking a Receipt for the same (which Receipt the said Commissioners are hereby required to sign and give), every such Encroachment or Inclosure, or such Part thereof as shall be so purchased, shall be awarded to such Person, and shall be holden and enjoyed by him and his Heirs accordingly; and the said Commissioners shall and they are hereby required to apply such Purchase Money in or towards the Expences of obtaining and passing this Act and carrying the same into full Execution; and in case any Surplus shall remain after Payment of such Expences, such surplus Monies shall be divided, apportioned, and paid by the said Commissioners amongst and unto the several and respective Parties entitled to or interested in the said Lands and Grounds according to their several and respective Rights and Interests therein; and the Shares of such of them as shall be seised in Fee

Fee Simple of their Estates in right whereof they shall be so entitled shall be paid to them respectively, and the Shares of any other of such Proprietors and Persons shall be paid into the Bank of *England*, and applied in manner herein-after directed; and in case any Dispute or Difference whatsoever shall arise touching any such Encroachments, or the Extent thereof, such Dispute or Difference shall be investigated and determined by the said Commissioners.

Commissioners to direct the Course of Husbandry.

XXXIX. And be it further enacted, That it shall be lawful for the said Commissioners, so soon after the passing of this Act as conveniently may be, and from Time to Time as they shall think fit, by Notice in Writing under their Hands to be affixed on some principal outer Door of the said Parish Church of *Barton* aforesaid on some *Sunday* previous to Divine Service, to order and direct the Course of Husbandry and the Stint or Rule of Stocking that shall be respectively observed and used in, over, and upon the said Lands hereby authorized to be divided, allotted, and inclosed, until the Time when they shall have completed the said Division, Allotment, and Inclosure thereof, as well with respect to the laying down, ploughing, sowing, fallowing, manuring, and tilling thereof as to the stocking and feeding of the Commonable Lands and Fallows or Stubbles upon the same, and to make such Recompence for the same as they shall think right, and shall and may make such further Orders and Regulations as to them shall seem expedient touching the Mode and Course of Husbandry and Management to be adopted and observed by the Farmers and Occupiers within the said Parish of *Barton*, for preventing them from ploughing up, committing Waste or Destruction upon, or improperly managing or stocking any of the said Lands or Grounds hereby authorized to be divided, allotted, and inclosed, in the meantime and until the said Division, Allotment, and Inclosure shall be completed, all which Orders and Regulations shall be binding and conclusive upon all Parties interested, their Farmers and Tenants; and the said Commissioners shall and may set and impose such pecuniary Penalties and Forfeitures on every Person not conforming to such Orders and Regulations as they shall think necessary, not exceeding the Sum of Five Pounds *per* Acre in case of cross-cropping or withholding from the Land its due Proportion of Manure, or Ten Pounds in any other Case, for any One Offence, and shall and may also settle, adjudge, and determine, in all Cases where the Tenant is entitled by Agreement to the Manure arising from the Lands in his Occupation by whom such Tenant shall be compensated for any such Manure left or given up by him; and such Penalties, Forfeitures, and other Sum or Sums of Money so to be settled, ordered, adjudged, and determined to be paid for or on account of the several Matters and Things aforesaid shall be recovered and recoverable in the Manner directed in and by the said first-recited Act with respect to the levying and recovering of Penalties.

Satisfaction to be made for growing Crops.

XL. And be it further enacted, That the said Commissioners shall and they are hereby authorized by Writing under their Hands to ascertain, order, and appoint what Recompence or Satisfaction in Money shall be made to the Owner of any Crops growing, according to the customary Mode of Cultivation within the said Parish, upon the Lands or Grounds hereby authorized to be divided, allotted, and

inclosed, at the Time such Division, Allotment, and Inclosure shall be made, for the said Crops, by the Person to whom the Lands or Grounds upon which such Crops are growing shall be allotted, and also what Recompence or Satisfaction in Money shall be paid, and by whom, to any Tenant or Occupier of any Land, as well for ploughing, tilling, manuring, or folding any of the Lands or Grounds which shall be divided, allotted, and inclosed by virtue of this Act, for the Benefit and Advantage accruing thereby to the Person to whom such Lands and Grounds shall be allotted, as for any Loss or Disadvantage which any such Tenant or Occupier may sustain by the Loss of his following or waygoing Crops upon the Lands or Grounds by this Act authorized to be divided, allotted, and inclosed; and if in any of the said Cases the Money to be paid for such Recompence and Satisfaction shall not be paid at the Time and in the Manner to be appointed as aforesaid by the said Commissioners, 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 entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act are herein directed to be raised, levied, and recovered.

Applications for Situations of Allotments.

XLI. And be it further enacted, That the said Commissioners shall and they are hereby required to appoint a Meeting for receiving Applications from the several Proprietors of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed, touching the Situations in which they would respectively choose to have their Allotments set out and allotted, and shall give Fourteen Days Notice of the Time and Place of such Meeting by Writing under their Hands to be affixed upon some principal outer Door of the Parish Church of *Barton* aforesaid, upon some *Sunday* previous to Divine Service, and also by Advertisement thereof in the Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*.

For determining Objections to Allotments.

XLII. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights and Interests of the several Proprietors of the Lands and Grounds hereby azthorized to be divided, allotted, and inclosed, and of the Persons entitled to Commonable and other Rights thereon, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors and Persons respectively in lieu thereof, the said Commissioners shall hold a Meeting at some convenient Time and Place, of which Meeting Fourteen Days Notice shall be given by affixing the same upon some principal outer Door of the Parish Church of *Barton* aforesaid upon some *Sunday* previous to Divine Service, and also by Advertisement thereof in the said Newspaper called the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated in the said County of *Cambridge*, when and where the said Proprietors and Persons aforesaid may be informed of the Situation of such intended Allotments, and see the same set out and delineated upon a Map or Plan to be produced for their Inspection; and if any of he said Proprietors or other Persons aforesaid upon such Inspection shall be dissatisfied with the proposed Allotments, the said Commissioners shall at such Time and Place aforesaid, or at some other Time

and Place to be appointed by them for that Purpose, receive Statements in Writing of such Complaints and Objections of any Proprietors or other Persons aforesaid against any such Allotments, and shall forthwith, or as soon after as conveniently may be, determine the same; and such Determination shall be final, binding, and conclusive on all Parties interested in such Allotments.

Allotment to be set out for Repair of Highways.

XLIII. And be it further enacted, That the said Commissioners shall, if they shall see fit, set out and allot unto the Surveyor for the Time being of the said Parish of *Barton*, and to his Successors for ever, such Parcels of the Lands hereby authorized to be divided, allotted, and inclosed as they shall think necessary and most convenient, as Allotments for supplying Materials for the Repairs of the several Roads and Ways by this Act authorized to be made, and of the several other Roads and Ways within the said Parish of *Barton*; and such Allotments shall be inclosed as the said Commissioners shall direct, and shall from and after the Execution of the Award of the said Commissioners be vested in the Surveyor of the Highways within the said Parish of *Barton* for the Time being, in Trust for the Purposes aforesaid, and the Grass and Herbage of such Allotments shall belong to such Persons as the said Commissioners shall by their Award order and direct; and if they shall make no such Order or Direction, then such Surveyor shall from Time to Time let the Herbage for the most Money that can be obtained for the same, and shall apply the Rents and Profits arising from the same towards the Repairs of the public Roads or Highways within the said Parish, and the said Surveyor shall account for such Rents and Profits in the same Manner as he is by Law accountable for other Monies that shall come to his Hands in the Capacity of Surveyor of the Highways, and shall be under and subject to the like Penalties for the Neglect thereof.

Allotments to be set out for the Lords of the several Manors for Right of Soil.

XLIV. And be it further enacted, That the said Commissioners shall set out, allot, and award unto and for the Lords for the Time being of the said several Manors of *Barton Priory* and *Barton Lancaster*, or to such of them as shall in the Judgment of the said Commissioners be entitled to the Soil of the Commons and Waste Lands in the said Parish of *Barton*, or any Part thereof, so much and such Parts of the Lands hereby authorized to be divided, allotted, and inclosed as shall in the Judgment of the said Commissioners be equal in Value to One Twentieth Part of such Commons and Waste Lands, Quality and Value considered, in lieu of and in full Compensation and Satisfaction of and for their respective Rights and Interests to and in the said Soil of the said Commons and Waste Lands, over and above and exclusive of any other Allotments which may be made to such Lords in lieu of or in satisfaction for any other Rights or Interests in such Commons and Waste Grounds, and such Allotments shall be divided between the respective Lords of the said Manors entitled thereto as aforesaid in such Proportions as the said Commissioners shall direct and award.

Allotments to the Appropriator and Vicar in

XLV. And be it further enacted, That the said Commissioners shall and they are hereby required to set out and allot, unto and for the Appropriator of the appropriate Rectory of *Barton* aforesaid, and

also unto and for the Vicar of the Vicarage of *Barton* aforesaid, or unto such Person as may be entitled to the same, such Parcels of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as in the Judgment of the said Commissioners shall be a full Equivalent and Compensation for the Glebe Lands and Rights of Common respectively belonging to the said Appropriator and Vicar in, over, and upon the Lands and Grounds by this Act authorized to be divided, allotted, and inclosed. In lieu of Glebe and Common Rights.

XLVI. And be it further enacted, That it shall be lawful for the Vicar for the Time being of the Vicarage of *Barton* aforesaid, by Indenture under his Hand and Seal, with the Consent and Approbation of the Patron of the said Vicarage for the Time being, such Consent to be had previous to the Execution of such Indenture or Indentures by the other Parties thereto, and with the Consent of the Bishop of the Diocese, to lease or demise all or any Part of the Allotment to be set out and allotted to such Vicar in right of his said Vicarage by virtue of this Act, to any Person whomsoever for any Term not exceeding Twenty-one Years, to commence within Twelve Calendar Months next after the passing of this Act, so that the Rent for the same shall be thereby reserved to the Vicar for the Time being by quarterly Payments in every Year, and so that there be thereby also reserved and made payable to such Vicar the best and most improved Rent that can be reasonably had or gotten for the same, without taking any Fine, Foregift, Premium, Sum of Money, or other Consideration for making or granting such Lease or Demise, and so that no such Lessee by any such Lease or Demise be made dispunishable for Waste by any express Words to be therein contained, and so that there be inserted in every such Lease such Power of Re-entry on Nonpayment of the Rent to be thereby reserved, within a reasonable Time to be therein limited after the same shall become due, and so that a Counterpart of each such Lease be duly executed by the Lessee to whom such Lease shall be so made as aforesaid: Provided always, that whenever any Lease to be so granted shall by any Means become forfeited or void or be surrendered before the Expiration by Effluxion of Time of the Term thereby granted, then and in such Case, and so often as the same shall happen, it shall be lawful for such Vicar as aforesaid for the Time being, with the previous Consent and Approbation of the Bishop of the Diocese and of the Patron of the said Vicarage, to grant a new Lease of the Land so demised, for such Term of Years as shall at the Time of such Avoidance be then to come and unexpired of the original Term granted by such original Lease, subject nevertheless to the Provisoes and Conditions contained in such original Lease and then remaining unperformed and capable of taking effect; and every such Lease shall be valid and effectual, any thing in the said first-recited Act or any Law or Usage to the contrary notwithstanding. Power of Vicar to lease his Allotment.

XLVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners and they are hereby required to set out, allot, and award unto the Churchwardens and Overseers for the Time being of the Parish of *Barton* aforesaid, out of the Lands and Grounds to be inclosed by virtue of this Act, a Piece of Land or Ground, Allotment to be set out for the Recreation of Inhabitants.

Ground, not exceeding Six Acres nor less than Four Acres, as a Place of Exercise and Recreation for the Inhabitants of the said Parish, and such Allotment shall be held by such Churchwardens and Overseers for the Purposes aforesaid, and shall be in the first instance fenced at the general Expence, and the Fences of such Allotment shall for ever afterwards be repaired and maintained by the said Churchwardens and Overseers, either by and out of the Rents to be received for the Herbage of the said Allotment, or by and out of the Poor Rates; and the Grass and Herbage growing and renewing upon such Piece of Land or Ground so to be set out and allotted as a Place of Exercise and Recreation as aforesaid shall and may be from Time to Time let by such Churchwardens and Overseers, and the Rent which shall be received by them for the same shall be by them from Time to Time applied, in the first place, in repairing and maintaining the Fences of the said Allotment, and, subject thereto, in aid of the Rates for the Repair of the public Highways in the Parish of *Barton* aforesaid.

Allotment of Residue.

XLVIII. And be it further enacted, That after the several Allotments herein-before directed to be set out and made shall have been so set out and made, the said Commissioners shall and they are hereby required to divide, set out, allot, and award all the Residue and Remainder of the Open and Common Fields and other Lands and Grounds by this Act authorized to be divided, allotted, and inclosed, unto and amongst the several Owners and Proprietors thereof and Persons who shall be entitled to any Estate, Right, or Interests therein, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to the Value of and a full Compensation and Satisfaction to them for their respective Rights and Interests in, to, over, and upon the said Open and Common Fields and other Grounds by this Act authorized to be divided and allotted.

Allotment of old Inclosures with Consent of Proprietors.

XLIX. Provided always, and be it further enacted, That it shall be lawful for the said Commissioners, by and with the Consent in Writing and at the Request of any Proprietor of any Houses, Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds within the said Parish of *Barton*, whether such Owner or Proprietor shall be a Corporation, Tenant 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, by with the Consent of the Lessor of any such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands or Grounds holden for Years determinable as aforesaid, and not otherwise, or with the Consent of the Guardian, Trustee, Feoffee for charitable or other Uses, Husband, Committee, or Attorney, of or acting for any such Proprietor as aforesaid who shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, (such Consent to be respectively testified in case of a Corporation by Writing under their Common Seal, and in case of an Individual under his Hand,) to order and direct such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands to be considered as allottable, and Part and Parcel of the Lands, Grounds, and Hereditaments hereby authorized to be divided, allotted, and inclosed, and such Allowance

shall

shall be made to the Proprietors of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, on account of the Situation or other beneficial Circumstances thereof, as the said Commissioners shall adjudge to be just and reasonable; and the said Commissioners shall and they are hereby required to set out, allot, and award, unto and for the Proprietor of such Houses, Homesteads, Gardens, Orchards, and old inclosed Lands and Grounds, so much and such Part of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed as they shall think reasonable and just, subject to the Rules, Orders, and Directions in this Act and the said recited Acts mentioned.

Insulated old Inclosures to be deemed allottable Lands.

L. And be it further enacted, That all inclosed Lands and Grounds within the said Parish of *Barton*, whether lying in single Pieces or in several adjoining Pieces, which are surrounded by Open Field Land, and thereby placed in an insulated Situation, shall be deemed Part of the Lands and Grounds within the said Parish of *Barton* authorized to be divided, allotted, and inclosed under and by virtue of this Act.

Pieces of Land by the Side of the Road may be allotted.

LI. And be it further enacted, That all Pieces and small Parcels of uninclosed Waste or Common Land (the Soil whereof shall belong to the Lords of either of the said Manors in their Right of Lords) lying by the Side of any Turnpike Road or other public Road or Lane within the said Parish of *Barton*, and which in the Judgment of the said Commissioners may be conveniently inclosed without incommoding the public Intercourse on such Road or Lane, or rendering such Turnpike Road of less Breadth than Forty-five Feet, and such other public Road or Lane of less Breadth than Forty-five Feet respectively, shall be deemed Part of the said Lands within the said Parish of *Barton* intended to be divided, allotted, and inclosed under and by virtue of this Act.

Allotments to be fenced.

LII. And be it further enacted, That the several Allotments to be made in pursuance of this Act shall be inclosed, ditched, and fenced at the Expence of the respective Persons to whom the same shall be allotted, in such Manner and within such Times as the said Commissioners shall by their Award or any Writing under their Hands order or direct, and the Fences so to be made shall for ever afterwards be repaired and maintained by such Persons as the said Commissioners shall by their Award order or direct.

Vicar's Allotments to be fenced at the general Expence.

LIII. And be it further enacted, That the Allotments to be made to the said Vicar of the aforesaid Vicarage of *Barton* in respect of Glebe Lands belonging to the said Vicarage shall be well and sufficiently inclosed and fenced on all such Parts and Sides as shall not be directed to be fenced by any other Proprietor, or as shall not adjoin any inclosed Land, or be bounded by any sufficient Watercourse or other sufficient Fence in the Judgment of the said Commissioners, and the whole Cost and Expence attending the inclosing and fencing the same shall be deemed Part of the Expences of carrying this Act into execution, and shall be borne and defrayed accordingly by and out of the Money to be raised for the Purposes of this Act; and all such Inclosures and Fences when made shall for ever thereafter be kept in repair by the said

said Vicar, or by the Persons for the Time being entitled in Possession to the said Allotments.

Equalizing the Share of Fencing.

LIV. Provided always, and be it further enacted, That if, from Situation or any other Circumstance, it shall happen that any of the Proprietors of the Lands hereby authorized to be divided, allotted, and inclosed, or any Person to whom any Allotments shall be made, shall not have a proportionable Share of the Boundary Hedges, Ditches, Mounds, or Fences assigned to him to make by virtue of this Act, it shall be lawful for the said Commissioners to ascertain and appoint what Sum of Money shall be paid and contributed by such Proprietor or Person towards making the Boundary Hedges, Ditches, Mounds, and Fences of the Allotments of such other of the said Proprietors and Persons as shall have too great a Proportion thereof to make, and such Money shall be paid to such Persons and in such Manner as the said Commissioners shall by any Writing under their Hands direct or appoint, and the same shall and may be received and recovered by all or any of the Ways and Means which by the said first-recited Act are given or provided for raising and recovering the Expences of obtaining and executing Acts of Inclosure in Cases where such Expences are directed to be paid in proportion by the Proprietors of Lands to whom any Allotments shall be made; and every such Order of the said Commissioners shall be final, binding, and conclusive on all Parties interested and concerned therein.

As to Expences of Boundaries.

LV. Provided always, and be it further enacted, That in all Charges hereafter to be made in respect of fencing the Boundaries of the said Parish of *Barton*, and Expences attending the same, the said Hamlet of *Whitwell* shall be liable only to so much thereof as shall be incurred in respect of making the Boundary of the said Hamlet of *Whitwell*.

Cattle not to be depastured in the Highways for Seven Years.

LVI. And be it further enacted, That no Person whosoever shall graze or keep any Sort of Beast or Cattle in or upon any of the Roads or Ways which the said Commissioners shall order and direct to be set out, and which shall be fenced on both Sides, for the Space of Seven Years next after the making and executing the Award of the said Commissioners; and every Owner and Occupier of Lands or Grounds within the said Parish of *Barton*, his Servants and Labourers, and also every Peace Officer and Parish Officer of the said Parish of *Barton* for the Time being, is hereby empowered to take and impound any such Beast or Cattle which shall be found so grazing as aforesaid as Cattle Damage feasant: Provided always, that nothing herein contained shall prevent the Proprietors of the Lands and Grounds which shall next adjoin the said Roads and Ways from depasturing their Cattle thereon, so far as the Frontage of their respective Lands and Grounds extends.

Partitions may be made in certain Cases.

LVII. And whereas it may happen that some of the Proprietors of Lands in the said Parish of *Barton* and Persons entitled to Allotments to be made by virtue of this Act may be seised or possessed thereof or entitled thereto in undivided Moieties, Joint Tenancy, or as Coparceners, or Tenants in Common, and cannot by reason of Infancy, Settlement, Absence beyond the Seas, or other Disability or Incapacity make an effectual Division thereof; be it therefore enacted, That it shall

shall be lawful for the said Commissioners, upon the Request in Writing of any such Proprietors, being seised or possessed or entitled in undivided Moieties, or as Coparceners, Joint Tenants, or Tenants in Common, or of the Husbands, Guardians, Trustees, Committees, or Attornies duly authorized of such of them as may be under Coverture, Minors, Lunatics, or beyond Seas, or under any other legal Disability or Incapacity, to make Partition and Division of the said Lands or Allotments to such of the said Proprietors as shall be so seised or possessed or entitled; and to allot the same to such Owners and Proprietors in Severalty; and from and immediately after the said Allotments shall be so made and declared the same shall be holden and enjoyed by the Persons to whom the same shall be allotted in Severalty, in such and the same Manner, and subject to such and the same Uses and Trusts, as the undivided Parts or Shares of such Estates would have been held in case such Division and Partition had not been made; and every such Partition shall be specified in the Award of the said Commissioners, or some other Instrument under their Hands and Seals; and every such Partition shall be good, valid, and effectual to all Intents and Purposes whatsoever.

Expences of Partitions.

LVIII. And be it further enacted, That all Costs, Charges, and Expences attending any Partition to be made by virtue of this Act shall be borne and defrayed by the several Proprietors of or Persons interested in the Estates which shall be so parted in such Manner and Proportions as the said Commissioners shall order and direct, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Power of Exchange.

LIX. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever within the said Parish of *Barton* in lieu of and in exchange for any other Lands, Tenements, or Hereditaments within the same Parish, or within any adjoining Parish, 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 in Writing of the Owner of the Lands which shall be so exchanged, whether such Owner shall be a Body or Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life or Lives, or in Fee Tail, General or Special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, (by and with the Consent of the Lessor thereof, but not otherwise,) or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who at the Time of making such Exchange shall be an Infant, Feme Covert, Lunatic, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for himself, herself, or themselves, such Consent to be testified in Writing under the Common Seal of the Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and every such Exchange 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

shall be made of any Lands, Tenements, or Hereditaments held in right of any Church or Chapel or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie or be situate: Provided also, that all Costs, Charges, and Expences attending the making and completing of any Exchanges shall be paid and borne by the several Parties making such Exchanges in such Manner and in such Proportions as the said Commissioners shall by their Award order and direct, and in case of Nonpayment thereof shall be recovered in the Manner by the said first-recited Act directed with respect to the Recovery of Penalties and Forfeitures.

Exchanges and Partitions of Copyholds to be perfected by Admittance.

LX. And be it further enacted, That every Person to whom any Copyhold Lands shall be allotted in Exchange or upon Partition as aforesaid shall, as soon as conveniently may be, and at all events before the Expiration of Twelve Calendar Months after the Execution of the Award of the said Commissioners, or at the then next General Court Baron to be held for the Manor whereof such Copyhold Lands shall be respectively held, be admitted Tenant of the Copyhold Lands so allotted; but in no such Case of an Admission by virtue of this Act shall any Fine, Rent, Heriot, Fees, or other Payments be made to the Lord of the said Manors respectively or to his Steward, save only the Sum of Two Pounds and Two Shillings to such Steward for the Fees of each Admission over and besides the Stamp Duty payable by Law on each Admission.

Power to enfranchise Copyholds.

LXI. And be it further enacted, That it shall be lawful for the Owners of any Lands, Tenements, or Hereditaments of Copyhold or Customary Tenure within and Parcel of the said Manors of *Barton Priory* and *Barton Lancaster*, or either of them, whether such Owners shall be Corporations or Tenants in Fee Simple, or in Fee Tail, General or Special, or for Life, and for the Guardians, Husbands, Committees, or Attornies of or acting for any such Owners as aforesaid who shall happen to be respectively Infants, Femes Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, and for Trustees or Feoffees for charitable or other Uses, to contract and agree with the Lords for the Time being of the said respective Manors, whether such Lords shall be Corporations, or shall hold the said Manors in Fee Simple or for any limited Estate or Interest, or as Trustees or otherwise, for the absolute and perpetual Enfranchisement of all or any such Copyhold or Customary Lands, Tenements, and Hereditaments, and all Allotments in respect thereof, and for the extinguishment of the Heriots, Quit Rents, and all other Rights of the Lords in, over, and upon the same, for a Compensation either in Money or Land, as in any such Contract shall be specified and declared.

Provision where the Enfranchisement shall be made for a Compensation in Land.

LXII. And be it further enacted, That in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Land, the said Commissioners shall and they are hereby required, upon the Application of any of the Parties interested, and which Application shall be made at the First or Second Meeting

Meeting to be holden under the Powers of this Act, to set out and allot, unto and for the said Lords of the said respective Manors whereof the Lands, Tenements, or Hereditaments so contracted to be enfranchised shall be holden, such Part or Parts of the Lands and Grounds hereby directed to be divided, allotted, and inclosed, belonging to the Person or Persons contracting for such Enfranchisement and Extinguishment as aforesaid, as shall in the Judgment of the said Commissioners be a full Compensation and Satisfaction for such Enfranchisement and Extinguishment, according to the Terms which shall be agreed upon between the Parties; and in all Cases where such Enfranchisement and Extinguishment shall be contracted to be made for a Compensation in Money, the said Commissioners shall and they are hereby required, upon the like Application of any of the Parties interested as aforesaid, to ascertain and determine the Amount of such Compensation according to the Terms which shall be agreed upon between the Parties, and all such Money Payments shall be made to the said Commissioners, whose Receipt shall be an effectual Discharge for the same, and the said Commissioners shall pay such Monies in the Manner herein-after directed with respect to Monies to be paid for the Purchase or Exchange of Hereditaments or of any Timber or Wood growing thereon, unless the Lord or Lords of the Manor or respective Manors within which any Copyhold Hereditaments shall be enfranchised as aforesaid shall be absolutely and beneficially entitled to such Manor or respective Manors, in which Case (subject to a Deduction for his, her, or their Proportion of the Expences of and attending this Act and carrying the same into execution) the said Commissioners shall pay the Consideration Monies for such Enfranchisement to such Lord or Lords for his or their own absolute Use, and all such Enfranchisements and Extinguishments, when completed, shall be specified in the Award of the said Commissioners, and an Entry of every such Enfranchisement and Extinguishment shall be made on the Court Rolls of the Manor of which the Hereditaments enfranchised were holden, and a Copy of such Entry, certified by the Steward or Deputy Steward of the said Manor, shall be admitted in all Cases as sufficient Evidence of such Enfranchisement and Extinguishment, and the Contract for the same and of the Payment of the Consideration or Purchase Money, when the same shall have been paid in Money; and when and so soon as such Allotments and Payments shall be respectively made as the Consideration for such Enfranchisement and Extinguishment as aforesaid, the Lands and Hereditaments which shall be so agreed to be enfranchised as aforesaid shall be held in Fee and Common Soccage, freed and absolutely acquitted and discharged from all Customary Fines, Heriots, Rents, Fealty, Suit of Court, Amerciaments, Forfeitures, and other Customary Payments, Duties, Services, and Penalties whatsoever which by or according to the Custom of the Manor whereof such Lands, Tenements, or Hereditaments were Parcel they had or would have been subject to or charged with, or which would otherwise be payable or to be done and performed to the Lord or Lords for the Time being of the same Manor for or in respect of the same Hereditaments as Copyhold of the same Manor if the same Hereditaments had not been enfranchised, and the same Hereditaments shall (subject to any Rent-charge or Mortgage which may be made under the

Provision where the Enfranchisement shall be made for a Compensation in Money.

Authority of the said recited Acts or of this Act,) go, remain, and be to the same Uses, on the same Trusts, and subject to the same Powers and Limitations (as near as the Difference of Tenure will admit,) as would have been subsisting in such Hereditaments (as Copyhold) if the same had not been so enfranchised as aforesaid.

Incapacitated Persons may borrow Money for such Enfranchisements.

LXIII. And be it further enacted, That it shall be lawful for the respective Husbands, Guardians, Trustees, Feoffees, or Trustees for charitable or other Uses, Committees, and Attornies of the Owner or Owners for the Time being of any such Copyhold Lands, Tenements, or Hereditaments so to be enfranchised as aforesaid, who shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any legal Disability, and for any such Owner or Owners being entitled for a particular or limited Estate only, to mortgage and charge the Lands, Tenements, or Hereditaments to which such Enfranchisement shall relate with the Monies to be paid as the Consideration for such Enfranchisement, and with Interest thereon, in the same Manner as is by this Act provided for enabling Parties to borrow Money for defraying the Costs of this Act and other Purposes.

The Allotments to be of the same Tenure as the Lands in lieu of which they were made.

LXIV. And be it further enacted, That (subject to the Power of Enfranchisement herein-before contained) all such Lands as shall be allotted by virtue of this Act shall be held by the Person to whom they are allotted under the same Tenures, Rents, Customs, and Services as the Lands in respect of which such Lands are allotted would have been held in case this Act had not been passed; and the Lands allotted in respect of Freeholds shall be deemed Freehold, and the Lands allotted in respect of Copyhold or Customary Lands shall in like Manner be deemed Copyhold or Customary Lands, and shall be held of the Lords of the same Manors under the same Rents and by the same Customs and Services as the Copyhold or Customary Lands in respect of which they may be allotted were or ought to have been held, and shall pass by the like Surrenders as the Copyhold or Customary Lands in respect whereof such Allotments shall be made now do; and the Lands allotted in respect of Leasehold Lands shall in like Manner be deemed Leasehold, and shall be held under the same Rents and Covenants as the Lands in respect of which they may be allotted were held, and the Remainder or Reversion thereof shall be and remain vested in the same Lessors respectively as the Remainder or Reversion of such other Lands was vested before the passing of this Act, except where otherwise particularly directed by this Act; any Law or Usage to the contrary notwithstanding.

Persons may sell their Common Rights, and Persons entitled to have Allotments may mortgage, &c. before Execution of the Award.

LXV. And be it further enacted, That if any Person has sold, or shall at any Time before the Execution of the Award of the said Commissioners sells his Right, Interest, and Property in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, or any Part thereof, to any Person, then and in every such Case it shall be lawful for the said Commissioners and they are hereby required, upon such Sale being made, to make an Allotment of Land unto the Purchaser in every such Sale, or to his Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold as aforesaid; and every such Purchaser, or his Heirs or Assigns, shall and may, from

and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him as aforesaid in the same Manner to all Intents and Purposes as the Vendor in every such Sale might, could, or ought to have held and enjoyed the same in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotments as aforesaid; and it shall be lawful for any Person who shall be entitled to any Allotment under or by virtue of this Act to give, grant, bargain, sell, surrender, demise, mortgage, limit, appoint, convey, and assure the same Allotment or all or any Part of his Estate or Interest therein or Right thereto, at any Time before the Execution of the said Award, and every such Gift, Grant, Bargain, Sale, Surrender, Demise, Mortgage, Limitation, Appointment, Conveyance, and Assurance shall be of the same Force and Validity as if the same had been made after the Execution of the said Award; and it shall be lawful for any Person entitled to any Allotment aforesaid to sell, dispose of, and convey the Estate in right of which he may be entitled to any such Allotment separate and apart from and retaining to himself such Allotment, Common Right, and Interest, and the said Commissioners are hereby required to award such Allotment accordingly.

Persons having limited Interests may raise Money by Mortgage for Expences.

LXVI. And be it further enacted, That it shall be lawful for the respective Proprietors of Allotments to be made by virtue of this Act, being Tenants for Life or in Tail, or for any other Estate of Freehold or Inheritance, and also for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Proprietors being under Coverture, Infants, Lunatics, Idiots, or beyond the Seas or otherwise incapacitated, and for the Trustees or Feoffees for charitable, parochial, or other Uses, or a competent Number of them in respect of any Lands held by them in Trust for any charitable, parochial, or other Uses, (by and with the Consent of the said Commissioners, testified in Writing under their Hands and Seals,) from Time to Time to charge their Allotments with any Money not exceeding Five Pounds for every Acre of such Lands, for and towards their respective Proportions of the Costs and Expences of obtaining and carrying this Act into execution, and for securing the Repayment of such Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the said Allotments unto or in Trust for any Person who shall advance such Money for any Term or Number of Years; but so that every such Grant, Mortgage, or Lease, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned, when the Money thereby to be secured, with all Interest thereon, shall have been fully paid and satisfied; and so that in every such Grant, Mortgage, Lease, or Demise which shall be made by or on behalf of any Person interested or entitled to any such mortgaged Premises for the Term of his natural Life there be contained a Covenant to pay and keep down the Interest of the said Money to be secured during his Life in such Manner that no Person afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or larger Arrear of Interest than for Six Calendar Months previous to the Time when the Title of such Person shall accrue or commence; and every such Grant, Mortgage, Lease, or Demise shall be valid in the Law for the Purposes thereby intended.

LXVII. And

Mortgages may be assigned.

LXVII. And be it further enacted, That every Person to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum of Money by him lent and advanced on the Credit of and for the Purposes mentioned in this Act, or who shall be entitled to the Money thereby secured, shall and may from Time to Time, by any Deed, Surrender, or Writing under his Hand and Seal, to be executed in the Presence of and to be attested by some credible Witness, assign and transfer the same Security, or the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his Estate, Right, Title, Interest, and Term of Years then to come and unexpired of, in, and to the same, unto any Person whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee, or Assignee, and his Executors or Administrators, and all Persons claiming under him or them, shall and may use, take, and pursue all such lawful Methods, Causes, and Expedients in Law or in Equity for recovering or obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of the Nonpayment of the Principal Money and Interest to be thereby secured, or any Part thereof respectively, as is or are used, taken, and pursued in Cases of the like Nature.

Directions for charging Copyhold Lands with Expences.

LXVIII. Provided always, and be it further enacted, That every Mortgage which shall by virtue of the said first-recited Act or of this Act be made of any Copyhold Lands, whether by Deed or otherwise, shall be presented and entered on the Court Rolls of the Manor under which such Copyhold Lands shall be held, whereupon the same Fees and other Payments shall be due and paid as in other Cases of Surrender by way of Mortgage, and shall operate as a Surrender to the Use of the Mortgagee, and his Heirs or Assigns respectively, according to the Custom of such Manor, subject nevertheless to Redemption on Repayment of the Principal Monies thereby respectively intended to be secured, with Interest thereon, as is herein provided in the Case of other Mortgagees, instead of being demised to such Mortgagee and his Executors, Administrators, and Assigns for a Term of Years as mentioned and prescribed in and by the said first-recited Act.

Leases at Rack Rent to be void.

LXIX. And be it further enacted, That from and immediately after the Allotments herein directed to be made shall have been marked and staked out, and the said Commissioners shall have directed the same to be entered upon by the Persons respectively to or for whom the same shall be intended, every Lease and other Agreement at Rack Rent subsisting of all or any Part of the said Lands hereby authorized to be divided, allotted, and inclosed, or to be discharged of any Right of Common thereon, and of the Messuages or Tenements and Homesteads respectively belonging thereto for any Term of Years not exceeding Twenty-one Years (save and except such Leases and Agreements as by the express Terms thereof are not to be void in case of an Allotment in Severalty or Inclosure) shall cease, determine, and be void as to all such Lands and Rights of Common respectively, but not as to any other Hereditaments comprised therein, such Compensation being paid to or allowed by the respective Landlords whose Leases or Agreements shall be so vacated as the said Commissioners shall by Writing under their Hands

Hands order and direct in that Behalf; and if any such Compensation shall not be paid to the Party entitled to receive the same within One Calendar Month after Demand made in Writing under the Hand or Common Seal (as the Case may require) of the Party to whom the same shall be payable, the said Commissioners are hereby required to raise and levy the same, for the Use and Benefit of the Party entitled thereto, by such Ways and Means as the Rates to be levied for defraying the Costs, Charges, and Expences of obtaining and executing this Act are directed to be raised and recovered; and it shall be lawful for the said Commissioners by Writing under their Hands 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 divided, allotted, and inclosed by virtue of this Act, or the Rights of Common thereof in their respective Holdings, to their respective Landlords, from the Time of the passing of this Act until such Lands shall be marked and staked out and be directed to be entered upon as aforesaid, and also to order and direct what Proportion and Amount of the whole Rent reserved upon such Leases or Agreements respectively shall be paid by such Tenants from the Time of the passing of this Act to the respective Landlords, for the Messuages, Homesteads, or ancient Inclosures comprised in such Leases or Agreements respectively, until the Expiration thereof, and which are not meant or intended to be made void as to such Messuages, Homesteads, or ancient Inclosures; provided that no Lease or Agreement comprising Messuages, Homesteads, or ancient Inclosures only shall be made void by this Act.

except Leases comprising old Inclosures only.

LXX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to set aside or make void any beneficial Lease from any Corporation or Person of any Lands, Tenements, or Hereditaments within the Parish of *Barton* aforesaid to any Person whomsoever, but the Person entitled to such beneficial Lease shall and may hold and enjoy his Term under the same Rents and Covenants as are specified in his Lease from the same Corporation or Person.

Beneficial Leases not to be vacated.

LXXI. Provided also, and be it further enacted, That nothing in this Act contained shall extend to annul, revoke, make void, or alter any Will or Settlement, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Portion, Debt, Charge, Rent, or Incumbrance, out of, upon, or affecting any of the Lands hereby authorized to be divided, allotted, and inclosed as aforesaid, or any of the Messuages, Lands, or Hereditaments which may be exchanged or parted with in pursuance of this Act, but that as well the Land allotted and exchanged as the Land which shall be assigned in Partition, or in Compensation for any other Estate or Right, by virtue or in pursuance of this Act, shall immediately after such Allotment, Exchange, Partition, or Assignment be, remain, and enure, and the several Persons to whom the same shall be so allotted, assigned, or given in Exchange or in Partition as aforesaid shall be seised and possessed thereof respectively to, for, and upon such and the same Estates, Uses, Trusts, Intents, and Purposes, and subject to such and the same Wills, Settlements, Limitations, Remainders, Conditions, Charges, and Incumbrances, as the several Lands in respect whereof such

Wills and Settlements not to be affected.

such Allotments, Exchanges, Partitions, and Assignments shall have been made should or would have stood severally limited, settled, vested, or been subject or liable to or been held by in case the same respectively had not been allotted, exchanged, parted with, or assigned as aforesaid, or as if this Act had not been passed, subject nevertheless to all such Mortgages and Sales as shall be made by virtue of this Act.

Application of Compensation Money when amounting to 200*l.*

LXXII. And be it further enacted, That whenever any Money is, under the Provisions of the said first-recited Act or of this Act, directed to be paid for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon, which shall belong to any Corporation, Tenant for Life or in Tail, or to any Feoffee in Trust, Executor or Administrator, Husband, Guardian, Committee, or other Trustee for or on behalf of any Infant, Idiot, Lunatic, Feme Covert, or other Cestuique Trust, or to any Person whose Lands are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, and which Money ought to be laid out in the Purchase of other Lands to be settled to the same Uses, it shall be lawful for the said Commissioners out of such Money to defray the Proportion (if any) of the Expences of obtaining this Act and of carrying the same and the said recited Acts into execution, which shall be charged upon any of the Lands of the respective Parties in Possession of the Lands, or of the Timber or Wood growing thereon, which shall be so purchased or exchanged, or on which such Timber or Wood actually grew, and also the Expence of any permanent Improvement, such as building, subdividing, dividing, draining, or planting, and the like, which shall in the Judgment of the said Commissioners be proper to be made and shall be made under their Direction, upon any Lands to be by virtue of this Act allotted to such Parties; and in case the Surplus of such Money shall amount to or exceed the Sum of Two hundred Pounds, the same shall, with all convenient Speed, be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Exchequer, to be placed to his Account there, *ex parte* "The Commissioners for executing this Act," pursuant to the Method prescribed by an Act passed in the First Year of the Reign of King *George* the Fourth, intituled *An Act for the better securing Monies and Effects paid into the Court of Exchequer at* Westminster *on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the Court, and for other Purposes*, and the General Orders of the said Court, without Fee or Reward; and shall, when so paid in, there remain until the same shall, by Order of the said Court made upon a Petition to be preferred to the said Court in a summary Way by the Parties who would have been entitled to the Rents and Profits of the said Lands, be applied either in the Purchase or Redemption of the Land Tax, or in or towards the Discharge of any Debt or other Incumbrance affecting the same Lands, or affecting other Lands standing settled therewith to the same or the like Uses, Trusts, Intents, or Purposes as the said Court shall authorize to be purchased, redeemed, or discharged, or such Parts as shall be necessary; or until the same shall, upon the like Application in a summary Way, be laid out, by Order of the said Court, in the Purchase of

1 G. 4. c. 35.

other Lands, which shall be conveyed, limited, or settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the aforesaid Lands stood limited or settled, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined or capable of taking effect; and in the meantime, and until such Purchase shall be made, the said Money may, by Order of the said Court upon Application thereto, be invested by the said Accountant General in his Name in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities, or of Government or Real Securities; and in the meantime, and until the said Annuities or Securities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends or Interest and annual Produce of such Annuities or Securities shall from Time to Time be paid, by Order of the said Court, to the Parties who would for the Time being have been entitled to the Rents and Profits of such Lands so to be purchased, conveyed, and settled.

When less than 200*l.* and amounting to 20*l.*

LXXIII. And be it further enacted, That in case the Surplus of such Monies shall be less than the Sum of Two hundred Pounds, and shall exceed or amount to the Sum of Twenty Pounds, the same shall, at the Option of the Parties for the Time being entitled to the Rents and Profits of the Lands so purchased or exchanged, or their Guardians or Committees in case of Infancy, Idiotcy, Lunacy, or other Incapacity, with the Approbation of the said Commissioners, to be signified in Writing under their Hands, be paid into the Bank of *England* in the Name and with the Privity of the said Accountant General of the Court of Exchequer, and be placed to his Account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same may be paid, at the like Option and with the like Approbation, to Two Trustees, to be nominated by the Parties who for the Time being would be entitled to the Rents and Profits of the said Lands, such Nomination to be approved of by the said Commissioners, and such Nomination and Approbation to be signified in Writing under the Hands (or Common Seal, as the Case may be) of the nominating and approving Parties; and the Money so paid to such Trustees, and the Dividends and Produce arising thereon and therefrom, shall be by them applied in like Manner as is herein-before directed with respect to Money so to be paid into the Bank of *England* in the Name of the Accountant General of the Court of Exchequer, but without obtaining or being required to obtain any Order of the said Court touching the Application thereof.

Where under 20*l.*

LXXIV. And be it further enacted, That in case the Surplus of such Monies shall be less than Twenty Pounds the same shall be paid to the Parties who would for the Time have been entitled to the Rents and Profits of the Lands so purchased or exchanged, for their own Use and Benefit; or in case of Infancy, Idiotcy, Lunacy, or other Incapacity, then such Money shall be paid to their Guardians, Committees, or Trustees, to and for the Use and Benefit of the Parties respectively entitled thereto.

LXXV. And

Power for Commissioners to make Alterations in Allotments.

LXXV. And be it further enacted, That it shall be lawful for the said Commissioners, at any Time before the Execution of their Award, to make any Alterations in the Allotments or in the Fences which they may have set out and ordered, or in the private Roads laid or to be laid over such Allotments, or in any of the Orders or Directions relating thereto which they may have made in pursuance of this Act, or as they may think right and expedient; and in case any Person shall be injured by any such Alteration on account of any Expences he may have incurred or otherwise, the said Commissioners shall ascertain and determine what Recompence shall be made to him for such Injury; and shall either pay the Amount thereof out of the Monies to come to the Hands of the said Commissioners in the Execution of this Act, or shall order and direct by whom and in what Manner such Recompence shall be made; and in case of Nonpayment thereof the same shall be recovered in manner by the said first-recited Act directed with respect to the Recovery of Penalties or Forfeitures.

Separate Allotments for Land held by different Titles.

LXXVI. And be it further enacted, That when any Proprietor of Lands which shall be divided, allotted, inclosed, or exchanged, or any Person to whom any Allotment is made, by virtue of this Act, shall hold such Lands, or the Lands in respect of which such Allotment is made, under different Titles and for different Estates, the said Commissioners shall ascertain and distinguish the Lands held for each of such Estates and under each of such Titles respectively, and shall accordingly in their Award set out and distinguish distinct and several Allotments for such respective Lands.

Where Allotments are omitted to be distinguished by the Award, the Defect may be remedied by a separate Instrument.

LXXVII. And be it further enacted, That where, from the Want of necessary Information, or from any other Cause, the said Commissioners shall have omitted to distinguish in their Award the several Tenures under which any of the said Lands are or shall be holden, or the different Estates or Titles for or under which the same are or shall be held, or to set out and award several and distinct Allotments, as by this Act directed, it shall be lawful for the said Commissioners, at any Time within Twelve Calendar Months after the Date and Execution of their Award, upon Request in Writing to them made by any Proprietor of any such Allotment or Lands, or other Person interested therein, or his Agent, to do all such Acts as may be necessary for supplying such Omission, and for that Purpose to examine Witnesses, and proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish and set out the Allotments and Lands held by different Tenures, and also the Allotments and Lands held by, for, or under different Estates or Titles respectively, in the same Manner as they are by this Act authorized and required to do in Cases where such Allotments and Lands are directed to be ascertained and distinguished and set out by their Award; and every such separate Instrument shall have the same Force and Effect as if it were contained in the said Award, and such Instruments shall be enrolled and deposited with the Award of the said Commissioners, and shall thenceforth be deemed and taken to be Part thereof to all Intents and Purposes; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry

or

or separate Instrument as aforesaid, and the Enrolment thereof, shall be paid by the Party who shall have requested the said Commissioners to make and execute the same, or by his Heirs, Executors, or Administrators.

Provision for Payment of Expences of Inclosure.

LXXVIII. And be it further enacted, That the Costs, Charges, and Expences incident to and attending the passing of this Act, and the several Sums of Money and Allowances hereby directed or authorized to be paid and allowed to the said Commissioners, Clerk, and Surveyor, for their Expences, Time, and Trouble, and the Costs, Charges, and Expences of measuring, surveying, planning, valuing, dividing, and allotting any of the Lands by this Act authorized to be divided, allotted, and inclosed, and of preparing and enrolling the Award of the said Commissioners, and all Costs and Charges that the said Commissioners shall be put unto in respect of any Appeal against their Decision, or of any Suit at Law or in Equity that may be instituted by or against them as Commissioners in the Execution of this Act, either before or after the Execution of the said Award, and all other Charges and Expences whatsoever of carrying this Act into execution, (so far as the same relates to the Division, Allotment, and Inclosure hereby authorized to be made,) shall be borne and defrayed by the several Owners and Proprietors of and Persons interested in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, (other than and except in respect of the Allotments herein-before directed to be made in lieu of Glebe Lands belonging to the said Vicar, and the Allotment to be set out as a Place of Exercise and Recreation of the Inhabitants of the said Parish, and other than and except the Surveyors of the Highways for the Time being in respect of the Allotments herein-before authorized to be made to them for Materials for the Repairs of Roads as aforesaid,) in such Shares and Proportions, and shall be paid at such Time and Place and to such Persons as the said Commissioners shall by Writing under their Hands, to be affixed upon some principal Door of the said Parish Church of *Barton* on some *Sunday* immediately before Divine Service, or delivered to the respective Persons liable to the Payment of such Costs, Charges, and Expences, at least Fourteen Days before the Time appointed for such Payment, order and direct; and the said Commissioners are hereby authorized and empowered from Time to Time to make and form Estimates of all such Costs, Charges, and Expences, and to raise the Amount of such Estimate at such Time or Times as they shall deem necessary or proper, either before or after the Execution of their Award; and in case any Person shall refuse or neglect to pay his Proportion of such Charges and Expences as aforesaid within the Time and to such Person as the said Commissioners shall appoint, it shall be lawful for the said Commissioners to recover the same, together with lawful Interest, to be computed from the Day on which the same ought to have been paid as aforesaid, by Action at Law in their own Names in any of Her Majesty's Courts of Record at *Westminster*, or it shall be lawful for the said Commissioners, by Warrant under their Hands and Seals, directed to any Person whomsoever, to cause the same, with such Interest thereon as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of the Person so neglecting or refusing to pay the same, rendering the Overplus (if any), on Demand,

Demand, to the Owner of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale; or it shall be lawful for the said Commissioners, or any Person authorized by them, immediately after such Neglect or Refusal, to enter into and upon the Premises so to be allotted to such Person, and demise the same, and receive and take the Rents, Issues, and Profits thereof, until thereby or therewith, or otherwise, such Share or Proportion, with lawful Interest for the same, to be computed from the Time such Money shall be ordered to be paid, and also all the Costs, Charges, and Expences as aforesaid by or attending such Entry upon and Receipt of the Rents and Profits of the said Premises, shall be fully paid and satisfied.

Power for Commissioners to borrow Money.

LXXIX. And be it further enacted, That if before the said Monies herein-before authorized to be raised by the said Commissioners can be raised and received by them, they shall find it necessary or expedient to obtain by Loan any Sum or Sums of Money for or towards defraying the Costs, Charges, and Expences aforesaid, it shall be lawful for the said Commissioners to borrow and take up at Interest, from any Persons willing to advance the same, such Sum and Sums of Money as they the said Commissioners shall from Time to Time think necessary for the Purposes aforesaid, which Money so to be borrowed shall be repaid by the said Commissioners, with Interest for the same, out of the Monies to be raised and received by them by any of the Ways or Means aforesaid.

Power to make additional Rate in case of Deficiency.

LXXX. Provided always, and be it further enacted, That if at any Time after the Allotments shall have been staked out it shall appear to the said Commissioners, either before or after the Execution of their Award, that the Money to arise by any previous Rates shall not be sufficient to defray the Costs, Charges, and Expences aforesaid, then the Deficiency shall be made up and raised from Time to Time by a Rate, to be made and levied upon the several Persons interested in the said Lands and Grounds hereby authorized to be divided, allotted, and inclosed, (other than and except as aforesaid,) in such Shares and Proportions, within such Time, and to be paid to such Persons as the said Commissioners shall from Time to Time direct, nominate, and appoint; and in case any Person herein-before made subject to the Payment of any Money towards such Costs, Charges, and Expences as aforesaid shall neglect or refuse to pay his Share or Proportion of any such Rate within the Time to be respectively appointed as aforesaid, or at any Time after, upon Demand, the same shall and may be levied and recovered in the Manner directed by this Act with respect to the previous Rate.

Empowering Commissioners upon Application to sell Part of Allotments to defray Expences.

LXXXI. And be it further enacted, That it shall be lawful for the said Commissioners, on Application made to them in Writing by any of the Proprietors of Allotments to be made by virtue of this Act, or by any of the Husbands, Guardians, Trustees, Committees or Attornies of or for any of such Proprietors, being under Coverture, Minors, Idiots, Lunatics, or beyond the Seas, or under any other Disability or Incapacity, or by the Persons acting as such Guardians, Trustees, Committees, or Attornies respectively, or by any of the said Proprietors, being Tenants in Tail or for Life or Lives, or on any other

Contingency, or by any Trustees or Feoffees for charitable, parochial, or other Uses, at any Time before or after the Execution of the Award herein-after directed to be made, to sell any Part of any Allotment to be made by virtue of this Act to the Person by whom or on whose Behalf any such Application shall be made, for the Purpose of raising a Sum of Money sufficient to defray the proportionable Part of the Costs, Charges, and Expences of obtaining and carrying into execution this Act and the said recited Acts, and of fencing and inclosing and subdividing his Allotment, which shall in and by such Rates or Assessments as aforesaid be charged upon such Parties, and of the Costs, Charges, and Expences of making and completing such Sale; and such Sale shall be make by the said Commissioners in such and the same Manner, and subject to such and the same Rules and Regulations, as are mentioned and prescribed in and by the said first-recited Act in respect to the Sale of Lands towards defraying the Expences of obtaining and carrying into execution any Act for dividing, allotting, and inclosing any Lands and Grounds; and every such Allotment for which the full Purchase Money shall be paid shall be vested in the said Commissioners, and be conveyed by Lease and Release, executed by such Commissioners, to the Purchaser thereof, at the Expence of such Purchaser, unto and to the Use of or in Trust for such Purchaser and his Heirs, or as he shall appoint, and shall be inclosed, and held by such Purchaser in Severalty; and the Receipt of the said Commissioners shall be a good and sufficient Discharge to the Purchaser for the said Purchase Money; and such Purchase Money shall be applied by the said Commissioners in or towards defraying such Costs, Charges, and Expences; and if any Surplus shall remain in the Hands of the said Commissioners, such surplus Money shall be paid to the Parties from whose Allotments such Sale shall be so made respectively, 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 of such surplus Money shall be applied and disposed of in manner by this Act directed with respect to Money to be paid into the Bank of *England* for the Purchase or Exchange of any Lands, or of any Timber or Wood growing thereon: Provided always, that nothing herein contained shall enable the said Commissioners to convey any Allotments set out by them as and for Copyhold of any of the said Manors respectively by Lease and Release as Freehold, but such Copyhold Allotments shall be conveyed by the said Commissioners by Indenture of Bargain and Sale, and shall be held by the Purchaser thereof by, under, and subject to the same Rents, Suits, and Services as such Allotment would have been held in case no such Sale had been made: Provided also, that it shall not be lawful for any Proprietor of an Allotment to raise by any Sale and Mortgage or Charge as herein-before mentioned, or either of those Means, any greater Sum of Money for the Purposes aforesaid than such Proprietor might have borrowed or charged upon his Allotment for such Purposes, reckoning Five Pounds for each and every Acre thereof, under or by virtue of the said first-recited Act: Provided further, that in all Cases in which the Money so raised by such Sale shall not be equal to the Money which might be borrowed or charged on such Allotment as aforesaid, it shall be lawful for the Proprietor, Part of whose Allotment shall be sold as aforesaid, to charge his Allotment with any Sum not exceeding the Difference.

Copyhold Allotments to be conveyed by Bargain and Sale.

LXXXII. Pro-

Monies may be recovered after Execution of the Award.

LXXXII. Provided always, and be it further enacted and declared, That if at the Time of the Execution of the said Award there shall remain due from any Person any Sum of Money which shall have been adjudged, ordered, or directed to be paid by virtue of this Act, it shall be lawful for the said Commissioners and they are hereby required to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

Award to be deposited with the Clerk of the Peace, and a Copy in the Parish Church.

LXXXIII. And be it further enacted, That as soon as conveniently may be after the said Division, Allotment, and Inclosure shall be completed, the said Commissioners shall and they are hereby required to form, draw up, and execute an Award, and the Execution of the said Award shall be proclaimed upon the next or some subsequent *Sunday*, at the outer Door of the Church of the said Parish of *Barton*, immediately after Divine Service, from the Time of which Proclamation only, and not before, such Award shall be considered as complete; and within Three Calendar Months after the said Commissioners shall have so made and executed the said Award they shall cause the same, together with a Map or Plan, as herein-after directed to be made, to be delivered to the Clerk of the Peace for the said County of *Cambridge*, who is hereby required to deposit and keep the same among the Records of the said County, so that recourse may be had thereto by any Person interested in the Premises, for the Reception whereof the Fee of Two Pounds and Two Shillings, and no more, shall be paid; and the said Award shall, from and after the Delivery thereof to the said Clerk of the Peace, be deemed and taken to be enrolled according to the Directions and within the Meaning of the said first-recited Act; and a Copy of the said Award, fairly transcribed in a Book on plain or unstamped Paper or Parchment, with a proper Map or Plan, attested and signed by the said Commissioners, shall within the Time aforesaid be deposited in the Parish Church of *Barton* aforesaid, and there kept in a Box to be provided for that Purpose; and the said Award, and the said Copy thereof, and any other Copy of the said Award, or of any Part thereof, attested by the Clerk of the Peace for the Time being of the said County, or his Deputy, (for every Sheet of which containing One hundred Words Sixpence, and no more, shall be paid,) shall from Time to Time and at all Times thereafter be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Reduced Plans of the Parish to be annexed to the Award and Copy, and a Schedule of the old Inclosures.

LXXXIV. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Two reduced Plans of the said Parish of *Barton* to be drawn upon Parchment or Vellum, on which the public and private Roads, Paths, and Drains, with the Boundary Fences of the several Allotments mentioned and described in the said Award of the said Commissioners, and such other Matters and Things as the said Commissioners shall think proper to be described thereon, shall be fairly and distinctly delineated, marked, and expressed, and the said Commissioners shall sign the said Plans, one of which shall be annexed to the said Award herein-before directed to be made, and the other shall be annexed to or shall go and be kept with the Copy of the said Award to be deposited in the Parish Church of *Barton* aforesaid; and the said Commissioners shall and they are hereby

hereby required to make and annex to the said Award a Schedule describing and setting forth the Quantities of all and every the Homesteads, Gardens, Orchards, and ancient Inclosures in the Parish of *Barton* aforesaid; which said Plans or either of them shall from Time to Time and at all Times be admitted and allowed as legal Evidence of the Matters and Things therein contained in all Courts whatsoever.

Plans to be admitted as Evidence.

LXXXV. And be it further enacted, That once at least in every Twelve Calendar Months during the Execution of this Act, the first of such Periods to be computed from the Day of the passing thereof, the said Commissioners shall and they are hereby required to make a true and accurate Account of all Sums of Money by them received and expended in the Execution of this Act, and in such Account shall be particularly specified the several Items and Articles for which each particular Sum shall have been paid and disbursed; and such Account, when so made, together with the Vouchers relating thereto, shall be by the said Commissioners laid before One or more of Her Majesty's Justices of the Peace acting for the said County of *Cambridge*, not interested in the Premises, to be by him or them examined and balanced, and such Balance shall be by such Justice or Justices stated in the Book of Account to be kept in the Office of the Person acting as Clerk to the said Commissioners; and an Abstract of such Account, so examined and balanced, shall, within Fourteen Days after the same shall have been so examined and balanced, be inserted in the *Cambridge Chronicle*, or in some other Newspaper printed or usually circulated within the said County of *Cambridge;* and no Charge or Item in any such Account shall be binding on the Parties concerned, or be valid in Law, unless the same shall have been duly allowed by such Justice or Justices, nor until such Abstract thereof shall have been published in such Newspaper as aforesaid, subject nevertheless to the Power of Appeal herein-after contained.

Accounts to be audited.

LXXXVI. And be it further enacted, That if any Person shall think himself aggrieved by any thing done in pursuance of this Act, (other than and except as to the Allotments, and except as to such other Determinations as are by this Act directed to be binding and conclusive, and except as in such Cases wherein an Issue at Law shall be tried as herein-before is mentioned,) he may appeal to the General or Quarter Sessions of the Peace which shall be held for the said County of *Cambridge* within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party concerned Ten Days previous Notice in Writing of such Appeal, and of the Matter thereof, (except with respect to the Accounts of the said Commissioners, which, notwithstanding the same shall have been examined and published as aforesaid, may be appealed against at any Time within Six Calendar Months after the Enrolment of the said Award in manner by this Act directed by the said Commissioners, on giving to the said Commissioners such Notice as last aforesaid,) and the Justices (not interested in the Premises) in such Sessions assembled are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein and to award such Costs and Damages as to them shall seem reasonable, and by their Order and Warrant to levy the Costs and

Power of Appeal.

Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party liable to pay the same, rendering the Overplus (if any), on Demand, to the Owner of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and every Order and Determination of the said Justices upon every such Appeal shall be final and conclusive on all Parties concerned, and shall not be removed or removeable by Certiorari or any other Writ or Process whatsoever into any of Her 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 and they are hereby required to award such Costs to be paid by the Appellant as to them shall seem reasonable, and such Costs shall be levied in manner as aforesaid.

Meaning of certain Words in this Act.

LXXXVII. And be it further enacted, That in the Construction of this Act every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing, and every Word importing the Plural Number shall comprise and be applied to one Person or Thing as well as several Persons or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; and the Word "Land" shall extend to every Species of Land, whether Arable, Meadow, or Pasture, and whether Freehold, Copyhold, or Customary, or of any other Tenure, and to any Messuage, Cottage, or Building; and the Word "Corporation" shall be understood to mean any Body Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

General Saving.

LXXXVIII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all other Persons, Bodies Politic, Corporate, or Collegiate, Her and their Heirs, Successors, Executors, and Administrators, all such Estate, Right, Title, and Interest, Claim and Demand, (other than and except such as are expressly barred and compensated for or intended to be barred and compensated for and extinguished by this Act,) which they, every or any of them, could or might have had, held, or enjoyed of, in, to, or in respect of the Lands and Grounds hereby authorized to be divided, allotted, and inclosed in case this Act had not been passed.

Act as printed by Queen's Printer to be Evidence.

LXXXIX. And be it further enacted, That this Act shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1839.