ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

Cap. 67.

An Act for incloſing Lands in the Pariſh of *Barton-in-the-Clay*, in the County of *Bedford*.

[12th *May* 1809.]

WHEREAS there are in the Pariſh of *Barton-in-the-Clay*, in the County of *Bedford*, divers Open and Common Fields, Common Paſtures, and other Commonable and Waſte Lands: And whereas *Edward Willes* Eſquire is Lord of the Manor of *Barton-in-the-Clay*, within the ſaid Pariſh: And whereas the King's moſt Excellent Majeſty is Patron of the Rectory of *Barton-in-the-Clay* aforeſaid, and the Reverend *John Hawkins* Clerk is Rector of the ſaid Pariſh: And whereas the ſaid *Edward Willes*, *John Sowerby* Eſquire, *William Inglis* and *James Campbell* Eſquires, and divers other Perſons, are ſeverally the Proprietors of the ſaid Open and Common Fields, Common Paſtures, and other Commonable and Waſte Lands, and are deſirous that the ſame ſhould be divided, allotted and incloſed, and that all the Land in the ſaid Pariſh ſhould be exonerated from Tythes; but ſuch Diviſion, Allotment, Incloſure, and Exoneration from Tythes cannot be effected without the Aid and Authority of Parliament: May it therefore pleaſe your Majeſty, that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That *John Maughan*, of *Hitchin*, in the County of *Hertford*, Gentleman, and *Thomas Thorpe*, of *Great Barford*, in the County of *Bedford*, Gentleman, ſhall be and they are hereby appointed Commiſſioners for ſetting out, dividing, and allotting the ſaid Open and Commiſſioners.

and Common Fields, Common Paſtures, and other Commonable and Waſte Lands within the ſaid Pariſh of *Barton-in-the-Clay*, and for putting this Act in execution, in ſuch Manner, with ſuch Powers, and ſubject to ſuch Regulations and Directions as are hereinafter contained, and with ſuch of the Powers, and ſubject to ſuch of the Rules, Directions, Regulations, Reſtrictions and Proviſions contained in an Act made in the Forty-firſt Year of the Reign of His preſent Majeſty, intituled, *An Act for conſolidating in one Act certain Proviſions uſually inſerted in Acts of Incloſure, and for facilitating the Mode of proving the ſeveral Facts uſually required on the paſſing of ſuch Acts*, as are not repugnant to or altered or otherwiſe provided for by ſome of the Clauſes, Regulations and Proviſions in this Act.

Umpire.

II. And, for the Purpoſe of ſettling and determining any Difference or Diſpute which may ariſe between the ſaid Commiſſioners, touching or concerning any of the Matters and Things to be by them determined and performed or executed, in purſuance of the ſaid recited Act or of this Act; be it further enacted, That *William Wilſhere*, of *Hitchin* in the ſaid County of *Hertford* Eſquire, ſhall be and is hereby appointed to act as an Umpire, and is hereby authorized and required to hear and determine every ſuch Difference or Diſpute as may ariſe between the ſaid Commiſſioners, touching any Act, Matter, or Thing relating to the ſaid Diviſion, Allotment and Incloſure, or to any of the Purpoſes of this Act; and the Judgement and Determination of the ſaid Umpire therein ſhall be deemed and conſidered to be the Judgment and Determination of the ſaid Commiſſioners, and ſhall be final and concluſive upon the ſaid Commiſſioners, and upon all other Perſons concerned in the ſaid Diviſion and Incloſure, ſo far as the Judgement and Acts of the ſaid Commiſſioners are by the ſaid recited Act and this Act made final and concluſive.

Appointment of new Commiſſioners on Vacancies.

III. And be it further enacted, That in caſe the ſaid *John Maughan*, or any Commiſſioner to be appointed in his Place as hereinafter is mentioned, ſhall refuſe to act, or to qualify himſelf as a Commiſſioner for the Execution of this Act, or if he ſhall, before the Powers and Truſts repoſed in the ſaid Commiſſioners ſhall have been fully executed, die or become incapable of acting as a Commiſſioner, it ſhall be lawful for the major Part in Value of the Proprietors for the Time being of the Land in the ſaid Pariſh of *Barton-in-the-Clay*, according to the Aſſeſſment thereof to the Land Tax (except the Rector of the ſaid Pariſh), who ſhall by themſelves or their reſpective Agents attend the Meeting or Meetings to be appointed for that Purpoſe as hereinafter is mentioned, by Writing under their reſpective Hands to appoint ſome other fit Perſon (not intereſted in any of of the Land within the ſaid Pariſh) to be a Commiſſioner in the Place of the Commiſſioner ſo refuſing to act or to qualify, or dying or becoming incapable of acting as aforeſaid; and if the ſaid *Thomas Thorpe*, or any Commiſſioner to be appointed in his Place as herein after is mentioned, ſhall refuſe to act or to qualify himſelf, or ſhall before the Powers and Truſts repoſed in the ſaid Commiſſioners ſhall have been fully executed, die or become incapable of acting as a Commiſſioner, it ſhall be lawful for the Rector of the ſaid Pariſh of *Barton-in-the-Clay* for the Time being, by Writing under his Hand to appoint ſome other fit Perſon (not intereſted in any of the Land within the ſaid Pariſh) to be a Commiſſioner in the Place of the Commiſſioner ſo refuſing to act or to qualify, or dying or becoming incapable of acting as aforeſaid; and every Commiſſioner to be appointed

appointed in the Manner hereinbefore respectively directed shall have the like Powers and Authorities as the Commissioners named and appointed by this Act: Provided always, that Two or more of the said Proprietors shall cause Notice to be given of the Time and Place of Meeting for every such Election (which Place shall be within the Parish of *Barton-in-the-Clay* aforesaid, or within the Distance of Eight Miles from the Boundary thereof), at least Ten Days before the Time of holding such Meeting, such Notice to be publicly read in the Parish Church of *Barton-in-the-Clay* aforesaid on some *Sunday* immediately after Divine Service, and inserted in the Newspaper called *The County Chronicle*, or some other Newspaper usually circulated in the County of *Bedford*.

Notice of Meetings for electing of a Commissioner or Umpire.

IV. And be it further enacted, That if the said *William Wilshere*, or any future Umpire to be appointed as hereinafter is mentioned, shall refuse to act or to qualify himself as an Umpire under this Act, or shall die or become incapable of acting before the Powers and Trusts reposed in the said Commissioners shall have been fully executed, then the said Commissioners shall, before they shall proceed further in the Execution of this Act, and they are hereby authorized to appoint by Writing under their Hands, some other fit Person (not interested in any of the Land in the said Parish of *Barton-in-the-Clay*) to be an Umpire in the Place of the Umpire so refusing to act or to qualify, or dying or becoming incapable of acting; and if the Commissioners cannot agree in the Choice of a Person to supply the Place of Umpire on any such Vacancy, then each of such Commissioners is hereby required to set down in Writing the Name of some fit Person (not interested in any of the Land in the said Parish) whom he shall propose to fill such Vacancy, and the Names so set down being written on Papers of the same Size and Kind, and folded up in the same Form, or as nearly as may be to the same Size and Form, shall at some Meeting of the Commissioners for the Execution of this Act, of which due Notice shall have been given, be put together in a Box or Glass, from which some indifferent Person shall at such Meeting publicly and in the Presence of all Persons interested, who shall choose to attend, draw out One of such Papers, and the Person whose Name shall be written on the Paper first drawn out shall be the Umpire, and the said Commissioners are hereby required to certify by Writing under their Hands the Choice and Appointment of such Person to be Umpire accordingly; and every Umpire to be appointed in the Manner hereinbefore directed shall have the like Powers and Authorities as are by this Act vested in the Umpire hereby appointed.

Appointment of Umpire on Vacancies.

V. Provided also, That the Instrument and Certificate of the Appointment of every Commissioner and Umpire to be elected and appointed by virtue of this Act, shall be inrolled with the Award of the Commissioners; and a Copy of such Instrument or Certificate, attested by the proper Officer of the Court where the same shall be inrolled, shall be full and sufficient Evidence thereof in all Courts whatsoever.

Appointment to be inrolled, and Copy to be Evidence.

VI. Provided, and be it enacted, That no Person shall be capable of acting in the Execution of this Act as Umpire until he shall have taken and subscribed the Oath following (that is to say):

'I *A. B.* do swear, That I will faithfully, impartially and honestly, according to the best of my Skill and Ability, execute and perform the Trusts, Powers, and Authorities vested and reposed in me as Umpire, by virtue

Oath of Umpire.

'virtue of an Act for inclosing Lands in the Parish of *Barton-in-the-Clay*, 'in the County of *Bedford*, according to Equity and good Conscience, 'and without Favour or Affection, Prejudice or Partiality, to any Per-'son or Persons whomsoever.' So help me GOD.'

Which Oath it shall be lawful to and for the said Commissioners or either of them to administer, and they are hereby required to administer the same; and such Oath, so taken and subscribed by such Umpire, shall be annexed to and inrolled with the Award of the said Commissioners.

Commissioners to give Notice of Meetings.

VII. And be it further enacted, That the said Commissioners shall and they are hereby directed to cause public Notice to be given of the Time and Place of their First and every other Meeting for the Execution of this Act, at least Eight Days before any such Meeting shall be holden (Meetings by Adjournment excepted); and that the said Commissioners may and they are hereby authorized to adjourn any such Meeting from Time to Time and Place to Place as they shall see Occasion; and in case both the said Commissioners shall not meet at the Time and Place appointed for any such Meeting, or to which any such Meeting shall be adjourned, it shall be lawful for the Commissioner present at such Time and Place, or if no Commissioner shall then attend, for the Clerk to the said Commissioners (which Clerk they are hereby authorized to appoint) to adjourn such Meeting to any future Day not exceeding Twenty-eight Days from the Day of Adjournment, to be holden at the same or any other convenient Place, and so from Time to Time until both the said Commissioners shall meet, and the Commissioner or Clerk making such Adjournment is hereby required to give Notice thereof to the absent Commissioner or Commissioners; provided that all Meetings of the said Commissioners for putting this Act in execution shall be holden in the Parish of *Barton-in-the-Clay* aforesaid, or within Eight Miles from the Boundary thereof.

One Commissioner or Clerk may adjourn.

Place of Meeting.

In what Manner Notices to be given.

VIII. And be it further enacted, That all Notices required by the said recited Act to be given by the said Commissioners, and the Notices hereby required to be by them given of their Meetings for the Execution of this Act, shall be given by Writing to be affixed on the South Door of the Parish Church of *Barton-in-the-Clay* aforesaid, or by Advertisement in the said Newspaper called *The County Chronicle*, or if such Newspaper shall not then be published, in some other Newspaper usually circulated in the said County of *Bedford*.

Commissioners empowered to determine Differences.

IX. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the Lands and Grounds hereby directed to be divided and allotted, touching or concerning the respective Shares and Proportions which they or any of them shall have or claim to have therein, or touching or concerning any other Matter or Thing relating to the said Division and Inclosure, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, upon proper and sufficient Enquiry and Evidence, to examine into, hear and determine the same.

Power to award Costs.

X. And be it further enacted, That in case the said Commissioners shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of the said recited

Act or of this Act, see Cause to award any Costs; it shall and may be lawful to and for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons, Body or Bodies Politic or Corporate, whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons, Body or Bodies Politic or Corporate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and required, by Warrant under their Hands and Seals directed to any Person whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politic or Corporate, so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand to the Person or Persons, Body or Bodies Politic or Corporate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Commissioners not to determine Rights contrary to the Possessions.

XI. Provided, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any of the Parties interested in the said Lands and Grounds contrary to the Possession of any such Parties, except in Cases of Inclosure of and Encroachments on any of the said Common or Waste Lands, made within Twenty Years before the passing of this Act; but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been duly taken from such Person or Persons by Ejectment or other due Course of Law.

XII. Provided always, and be it further enacted, That if any Person or Persons, Body or Bodies Politic or Corporate, making any Claim or Claims to any Lands or Hereditaments intended to be divided or affected by this Act, or any Right or Interest therein, or objecting to any such Claim or Claims, shall be dissatisfied with the Determination of the said Commissioners, and shall be desirous of having such Claim or Claims, Rights and Interests respectively tried at Law, and the Person or Persons, Body or Bodies Politic or Corporate so desirous to have the same tried at Law, shall and do by themselves or their respective Stewards, Receivers, Attornies or Agents, give or cause to be given Notice thereof in Writing to the said Commissioners or either of them, within Two Calendar Months next after such Determination shall have been so made by the said Commissioners, (of which Notice the said Commissioners are hereby required immediately on Receipt thereof, or as soon afterwards as may conveniently be done, to give Information to the adverse Party or Parties, or his, her, or their respective Stewards, Receivers, Attornies or Agents, by Writing under their respective Hands, to be delivered to or left at the usual Place of Abode of such Party or Parties, Stewards, Receivers, Attornies or Agents as aforesaid), then it shall be lawful for the Person or Persons, Body or Bodies Politic or Corporate giving such Notice as aforesaid, their respective Heirs, Successors, or Assigns, and he, she, or they is and are hereby required to proceed to a Trial or Trials at Law of the same at the Assizes to be holden for the County of *Bedford*, next after One Month from

the Time when such Notice as aforesaid shall have been given, in a feigned Action or Actions for that Purpose to be commenced in His Majesty's Court of King's Bench or Common Pleas at *Westminster*, by the Person or Persons, Body or Bodies Politic or Corporate giving such Notice as aforesaid, against any Person or Persons, Body or Bodies Politic or Corporate interested in the said Division, in whose Favour such Determination of the Commissioners shall have been made; and the Defendant or Defendants in such Action or Actions shall forthwith name an Attorney or Attornies, who shall file Common Bail, or appear and accept One or more Issue or Issues, whereby the Claim or Claims, Rights and Interests in question may be properly tried and determined (such Issue or Issues to be settled by the proper Officer of the Court wherein such Action shall be brought, if the Parties shall differ about the same); and for the Trial of any such Issue or Issues it shall appear that the Party claiming is entitled to any qualified or less Right or Rights, or Interests, than was or were claimed by such Party, then it shall and may be lawful for the Jury by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the Postea in addition to the Verdict given on the Issue or Issues joined; but nevertheless the Costs of such Action or Actions shall abide and be determined by the Verdict given upon the Issue or Issues joined, as if no such Special Finding had been made, and the Verdict or Verdicts which shall be given in such Action or Actions upon the Issue or Issues therein joined, in case there shall be no such Special Finding and Indorsement, if any such shall be made, shall be binding upon and to all and every Body and Bodies Politic and Corporate, Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, or Finding and Indorsement, and order a new Trial or Trials to be had thereupon, which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts or Special Finding or Indorsement shall be obtained, the same not being set aside by the Court, the said Commissioners shall and they are hereby authorized and required to act in conformity thereto, and to allow or disallow the Claim or Claims, Right or Rights, or Interest or Interests, thereby determined, according to such Verdict or Verdicts, or Finding and Indorsement as aforesaid: Provided always, that it shall be lawful for the Court in which any Action commenced in pursuance of this Act shall be depending, upon sufficient Cause shewn, to put off the Trial of such Action, although the Time hereinbefore limited for the Trial of such Action may be thereby exceeded; but if no such Action or Actions shall be brought or commenced by the Person or Persons, Body or Bodies Politic or Corporate, giving such Notice within the Time aforesaid, or if such Action or Actions shall not be proceeded in to a Trial or Trials at the First Assizes which shall be holden for the said County of *Bedford*, after the Expiration of One Calendar Month from the Day of giving such Notice, by or on Account of the Neglect or Default of the Plaintiff or Plaintiffs therein, then and in such Case the Determination of the said Commissioners shall be final, binding, and conclusive unto and upon all Parties whomsoever.

Actions not to abate by the Death of a Party.

XIII. Provided always, and be it enacted, That if any of the Parties in any Action or Actions to be brought and prosecuted in pursuance of this Act shall die pending the same, such Action or Actions shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened: Provided also, that if any Person or Persons in whose favour any such

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

Power to ſtop Roads between or over old Inclоſures.

XIV. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioners, and they are hereby authorized and empowered to divert or ſtop up any old Carriage Road, Driftway, Bridleway or Footpath, public or private, leading between, through and over any of the old Incloſures in the ſaid Pariſh of *Barton-in-the-Clay*, and the Soil of the Roads and Ways ſo to be ſtopped up ſhall be deemed and taken to be Part of the Lands and Grounds to be divided and allotted by virtue of this Act; provided that no ſuch Carriage Road, Driftway, Bridleway or Footpath, paſſing or leading between, through or over any of the old Incloſures in the ſaid Pariſh, ſhall be ſtopped up without the Concurrence and Order of Two Juſtices of the Peace for the ſaid County of *Bedford*, not intereſted in ſuch Roads or Ways, and that every ſuch Order ſhall be ſubject to an Appeal to the Quarter Seſſions for the ſaid County of *Bedford*, in like Manner and under the ſame Forms and Reſtrictions as Orders originally made by Juſtices for diverting and turning Roads and Ways.

Roads dividing Pariſhes.

XV. And be it further enacted, That in caſe any public Roads or Highways ſhall by virtue of the ſaid Act of the Forty-firſt Year of His preſent Majeſty's Reign, and of this Act, be ſet out or continued in any Situation or Direction where the ſaid Pariſh of *Barton-in-the-Clay* is divided from any adjoining Pariſh or Place, and where there now is or uſually hath been a public Road or Way, and ſuch adjoining Pariſh or Place hath heretofore been charged or liable or ought to be charged or liable to One-half Part of the Repairs and Support of the ſaid Road or Way, then and in ſuch Caſe the ſaid Commiſſioners may and ſhall ſet out ſo much only from and out of the Lands and Grounds hereby intended to be divided and allotted, as will enlarge the Breadth of ſuch Road or Way to Thirty Feet at the leaſt.

Juſtices empowered to declare any of the Roads completed.

XVI. And be it further enacted, That when and as ſoon as Two or more of His Majeſty's Juſtices of the Peace for the ſaid County of *Bedford*, at any Special Seſſions to be holden by them, ſhall find, and ſhall under their Hands and Seals certify and declare any of the public Carriage Roads to be ſet out in purſuance of the ſaid recited Act and of this Act, or any Part of any ſuch Road to be fully and ſufficiently formed, repaired and completed,

completed, such Road or Roads or so much thereof as shall in any such Certificate be described and certified, shall thenceforth be supported and kept in Repair by such Persons and in like Manner as the public Roads within the said Parish of *Barton-in the-Clay* are or ought by Law to be amended and kept in Repair; and every such Certificate shall at the General Quarter Sessions of the Peace to be holden for the County of *Bedford* next after the Date thereof, be filed of Record by the Clerk of the Peace for the said County.

Power to shorten Boundary Fences.

XVII. And be it further enacted, That in order to shorten the Boundary Fences between the Lands and Grounds by this Act directed to be divided and inclosed, and any adjoining Parish or Parishes, it shall and may be lawful to and for the said Commissioners (with the Consent in Writing under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors, or Owner or Owners of the Soil, and under the Hands of the major Part in value, to be ascertained by the Land Tax Assessment, of the Land Owners in any Parish or Parishes interested in any Land adjoining to the said Parish, and also under the Hand or Hands of the Owner or Owners of the adjoining Lands upon which such Fence or Fences is or are to be made, to set out and ascertain the Boundary Fences to be made between the Land adjoining to the Lands and Grounds hereby intended to be divided, allotted, and inclosed, in such Manner as they the said Commissioners shall judge proper for the Purposes aforesaid; and after such Boundary Fences shall be set out and ascertained as aforesaid, the same shall be fenced by such Person or Persons, in such Manner and at such Time or Times as the said Commissioners shall order and direct in and by their Award, and shall be for ever thereafter deemed and taken to be the Boundaries between the said Parish of *Barton-in the-Clay* and such adjoining Parish or Parishes as aforesaid; any Law, Usage or Custom to the contrary notwithstanding.

Improvement by Irrigation and Drainage.

XVIII. And whereas certain Parts of the Parish of *Barton-in-the-Clay* aforesaid might be improved by Irrigation or Watering, if certain of the Brooks, Rivulets and Springs therein were for that Purpose conducted in Carriages or Ditches on proper Levels, and it may be necessary that such Carriages and Ditches shall in their course to and from the Land intended to be watered, pass through and over Land to be allotted to other Proprietors, and in some Instances over old Inclosures; and there are other Lands in the said Parish which might be greatly improved by proper and competent Drains or Ditches being cut or continued through the Grounds below such Lands; be it therefore enacted, That it shall be lawful for the said Commissioners to take the Levels and examine the Practicability and Extent of the Improvements which may be made by Irrigation and Drainage within the said Parish of *Barton-in-the-Clay*, and to employ any proper Person or Persons for that Purpose, and the said Commissioners are authorized and empowered to scour and deepen, straighten, divert, alter, change, raise, sink, or embank all or any of the ancient Brooks, Ditches and Watercourses within the said Parish for the Purposes aforesaid, and to set out, appoint, construct and make all such new Ditches, Trenches, Bridges, Sluices, Sewers and Drains, as well in, through, over and upon the Lands and Grounds hereby intended to be divided and allotted as aforesaid, as in, over, through and upon any ancient Inclosures or other Lands and Grounds within the said Parish, or across and under any public

or private Road as they shall judge necessary for the Purpose of irrigating or draining any of the Lands and Grounds within the said Parish, which from their Situation may be capable of such Improvement, and the said Commissioners are hereby authorized and required to make a reasonable Satisfaction to the Proprietor or Proprietors of such antient Inclosures or other Lands not hereby intended to be divided and allotted, for any Damage which may be done to their Lands in the constructing, making and maintaining any Ditches, Watercourses, Trenches, Dams, Bridges, Sluices, Sewers or Drains, in, through, or over such Lands, and the said Commissioners shall apportion and assess the Expence of the Satisfaction to be made for Damage done to old Inclosures, and of digging, making and constructing the necessary Ditches, Dams, Bridges, Sluices and Drains, for the Purpose of conveying the Water upon and taking the same off the Land to be irrigated and drained as aforesaid, upon all or any of the said Proprietors to whom the said Lands shall be allotted and belong, in proportion to the Benefit their Estates will severally derive from such Irrigation and Drainage; and the Money so assessed shall be levied and recoverable in the same Manner as the Money for the Purpose of paying the Expences of passing this Act, and carrying the same into Execution is directed to be levied and raised; and the said Commissioners are hereby directed in and by their Award, to order and appoint at whose Expence, at what Time, and in what Manner the said Ditches, Drains, Bridges, Sluices, Banks, Dams and other Requisites for irrigating and draining respectively shall thereafter severally be repaired, scoured, cleansed, maintained and renewed, and at what Time and in what Proportions the said Water shall be used by the several Proprietors for the Purpose of Irrigation as aforesaid; and the several Proprietors of the Land to be irrigated as aforesaid, and their respective Servants, shall thereafter, at such Times as the said Commissioners shall in their said Award direct, have free Access and Liberty of passing along the Banks of such of the Ditches or Brooks as shall bring or convey the Water to or upon their respective Lands and along the Banks of such Drains, Ditches or Brooks, as shall convey the Water from and off their said Lands, for the Purpose of opening, shutting or regulating the Sluices, or of removing any Obstruction to the Course of the Water, doing as little Damage as may be: Provided always, that no such ancient Brooks or Watercourses shall be diverted, altered or turned, without the Consent in Writing of the Person or Persons from or out of whose Lands the same shall be diverted, altered or turned, and of the Person or Persons through or into whose Lands the same shall be diverted, altered or turned.

Allotments for Sand, Chalk and Gravel.

XIX. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby required to set out, allot and award One or more Plot or Plots of the said Lands and Grounds so intended to be divided and allotted as aforesaid, not exceeding in the whole Five Acres, as and for public Sand or Chalk and Gravel Pits, with convenient Roads to and from the same, to be used for the Repairs of the Turnpike and other public Roads in the said Parish, and to award and direct to whom the Herbage of such Allotment or Allotments shall belong.

Allotments to the Rector for Tythes.

XX. And be it further enacted, That the said Commissioners shall set out, for and in lieu of all Tythes both Great and Small, arising, growing, renewing, happening or payable within the said Parish of *Barton-in-the-*

the-Clay, ſuch Parcel or Parcels of the Lands and Grounds hereby directed to be divided and allotted, and with the Conſent in Writing of the reſpective Proprietors thereof, ſuch Parcel and Parcels of the old Incloſures in the ſaid Pariſh of *Barton-in-the-Clay*, as in the Judgement of the ſaid Commiſſioners ſhall be equal in Value to One-fifth Part of all the Arable Land, One-tenth Part of all the Wood Land, and One-eighth Part of all the Reſidue of the Lands and Grounds within the ſaid Pariſh of *Barton-in-the-Clay*, which are ſeverally ſubject or liable to the Payment of Tythes (and which ſhall remain after the public and private Roads ſhall be taken and deducted therefrom), and the Land ſo directed to be ſet out for Tythes as aforeſaid ſhall be by the ſaid Commiſſioners allotted and awarded to the Rector of the ſaid Pariſh and his Succeſſors; and the Boundary or Boundaries of the Allotment or Allotments to be ſo made to the Rector of the ſaid Pariſh, as well for Tythes as for the Glebe Land of the ſaid Rectory, ſhall on all Sides where Fences ſhall not be by the ſaid Commiſſioners directed to be made by ſome Proprietor or Proprietors of the adjoining Land, be properly fenced with Ditches and Quickſet Hedges, guarded on both Sides with ſubſtantial Poſts and Rails, and ſuch Fences ſhall be for Seven Years from the making thereof preſerved, repaired and maintained by or at the Expence of the ſeveral Proprietors of the Lands and Grounds hereby directed to be divided and allotted and exonerated from Tythes, in ſuch Proportions as the ſaid Commiſſioners ſhall award and direct, and ſuch Allotments ſhall be a full Satisfaction and Compenſation for all the Tythes, both Great and Small, ariſing and renewing within the ſaid Pariſh of *Barton-in-the-Clay*; and from and after ſuch Allotment and Allotments ſhall have been made, and the Rector of the ſaid Pariſh ſhall be put into Poſſeſſion thereof, all ſuch Tythes ſhall ceaſe, determine, and be for ever extinguiſhed.

To be fenced.

After Allotments made Tythes to ceaſe.

XXI. Provided, and be it further enacted, That the Site of the Bury Farm, with the Buildings thereon, the Pound Cloſe, the Hither Bury Cloſe, the Further Bury Cloſe, the Two Church Cloſes, and the Two Down End Cloſes, Parts of the Eſtate of the ſaid *Edward Willes*, in the ſaid Pariſh of *Barton-in-the-Clay*, containing together Twenty Acres Two Roods and Thirty-three Poles, or thereabouts, be the ſame more or leſs, and adjoining or lying near to the Parſonage Houſe of *Barton-in-the-Clay* aforeſaid, ſhall be by the ſaid Commiſſioners allotted in part of the Compenſation for the Tythes ariſing from the Land of the ſaid *Edward Willes*, in the ſaid Pariſh, payable to the ſaid Rector.

Compenſation for Tythes not compenſated for by Land.

XXII. And be it further enacted, That in every Caſe where there ſhall be incloſed Lands in the ſaid Pariſh of *Barton-in-the-Clay*, ſubject and liable to the Payment of Tythes, the reſpective Proprietors whereof ſhall not be entitled to any or not to a ſufficient Intereſt or Property in the Land hereby directed to be divided and allotted, to make Compenſation for the Tythes of ſuch incloſed Land, if the ſaid Commiſſioners ſhall not with the Conſent of ſuch Proprietors, allot a ſufficient Part of ſuch Incloſures in lieu of the Tythes thereof, or in lieu of ſo much of ſuch Tythes as ſhall not be compenſated by the Intereſts of ſuch Proprietors reſpectively in the Land to be divided and allotted, then ſuch Proprietors ſhall reſpectively pay unto ſuch Perſon or Perſons, and at ſuch Time or Times as the ſaid Commiſſioners ſhall appoint, ſuch Sum and Sums of Money as the

ſaid

said Commissioners shall adjudge and determine to be a full Compensation and Satisfaction for the Tythes of such inclosed Lands respectively, or of such Parts thereof for which a Compensation in Land shall not have been made as aforesaid; which Sum or Sums shall be applied towards defraying the Expences of passing this Act, and carrying the same into Execution, and if any Surplus shall remain after Payment of such Expences as aforesaid, such Surplus shall be divided between the several Persons interested in the said Lands and Grounds in Proportion to their respective Interests and Property therein, and the Shares of such of them as shall be Tenants thereof in Fee Simple, shall be paid to them respectively, and the Shares of such other Persons respectively shall be paid and applied in the Manner directed by the said Act of the Forty-first Year of the present Reign, with respect to Money to be paid for the Purchase or Exchange of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments, to be settled to the same Uses.

Recovery of Money ordered to be paid in Compensation for Tythes.

XXIII. And be it further enacted, That as well the Sum and Sums which shall by the said Commissioners be ordered to be paid in Compensation for Tythes, as the Proportion of the Costs and Charges of obtaining this Act and carrying the same into Execution, which the said Commissioners shall adjudge to be paid by the Proprietors of inclosed Lands, to be exonerated from Tythes, or exchanged by virtue of this Act, shall be recoverable by the same Methods of Distress and Sale of the Goods and Chattels of the respective Proprietors of such old Inclosures, or by Entry upon and Perception of the Rents and Profits thereof, as the said Commissioners are authorized to take and use for the Recovery of the Expences of obtaining and executing this Act, upon the Proprietors of the Lands and Grounds to be allotted by virtue hereof, and upon the Allotments to be to them respectively made, as fully as if such Powers of Distress and Sale and of Entry and Perception of Profits, were herein repeated and expressly applied to such old Inclosures, and to the respective Proprietors thereof, and to the Persons to whom the same shall be assigned in exchange.

Tenants for Life may charge inclosed Lands with Money paid in exoneration for Tythes.

XXIV. And be it further enacted, That it shall be lawful for the Husbands, Guardians, Trustees, Committees or Attornies of any of the Owners or Proprietors of the Lands and Grounds, which shall by virtue of this Act be exonerated from Tythes by a Money Payment or Money Payments, who shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability or Incapacity, and for any of the said Owners and Proprietors, being Tenants in Tail, or for Life or Lives, or for Years determinable on a Life or on Lives, or on any other Contingency, or Trustees for Charitable Uses, or the major Part of such Trustees respectively, to charge such Lands and Grounds with such Sum or Sums of Money as the said Commissioners shall direct to be paid for the Exoneration thereof from Tythes, and for the Share and Shares of the Owners and Proprietors thereof, of the Costs and Charges of passing this Act, and carrying the same into Execution, and for the Security of any Person who shall advance and lend the same, to grant, mortgage, surrender, lease or demise such Lands and Grounds, in such Manner and with and subject to such Conditions and Restrictions as are by the said Act of the Forty-first Year of the present Reign enacted and provided for raising the Shares and

Proportions of the Owners or Proprietors of allotted and exchanged Lands, of the Coſts and Expences of paſſing Acts of Incloſure, and carrying the ſame into Execution.

Allotment of Reſidue.

XXV. And be it further enacted, That the ſaid Commiſſioners ſhall and they are hereby required to allot the Reſidue of the Lands and Grounds, hereby directed to be divided and allotted after the proper Deductions ſhall have been made for Tythes, unto and amongſt the ſeveral Perſons who at the Time of making ſuch Allotments ſhall be reſpectively entitled thereto and intereſted therein, in Proportion to their reſpective Shares, Rights and Intereſts therein, and that all Incloſures within the ſaid Pariſh of *Barton-in-the-Clay*, belonging to Two or more diſtinct Proprietors, and all Cloſes ſituate within and ſurrounded by any of the Common Fields in the ſaid Pariſh, ſhall be deemed and taken to be Parts of the Lands and Grounds directed to be divided and allotted by virtue of this Act.

Expences and Money paid in exoneration of Tythes may be raiſed by Sale.

XXVI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners, and they are hereby empowered and required, upon the Requeſt of any of the Owners or Proprietors of the Lands and Grounds hereby directed to be divided and allotted or of any Right or Intereſt therein, being Tenants in Tail or for Life or Lives, or for any Number of Years determinable on a Life or on Lives, or for any other determinable Eſtate or Intereſt, or at the Requeſt of the reſpective Huſbands, Guardians, Truſtees, Committees, Agents or Attornies of or for any ſuch Owners or Proprietors being under Coverture, Minors, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or of the Perſons acting as ſuch Guardians, Truſtees, Committees, Agents or Attornies, or of the Truſtees for any Charitable or Public Uſes, or the major Part of them reſpectively, to raiſe the Share and Proportion or reſpective Shares and Proportions of the Perſon or Perſons by or on whoſe Behalf any ſuch Requeſt ſhall be made of the Charges and Expences of paſſing this Act, and of carrying the ſame into Execution, not exceeding the Rate of Five Pounds an Acre, and ſuch Sum and Sums as ſhall have been adjudged and ordered by the ſaid Commiſſioners to be paid by any ſuch Perſon or Perſons in Compenſation for the Tythes of old Incloſures, by Sale of any of the Lands or Hereditaments of ſuch Perſon or Perſons, ſituate, lying or ariſing within the ſaid Pariſh of *Barton-in-the Clay* in the Manner and ſubject to the Rules preſcribed by the ſaid Act of the Forty-firſt Year of the preſent Reign, for the Sale of Lands directed to be ſold for the Payment of the Expences attending the Execution of Acts of Incloſure; provided that no more ſhall be ſold of the Lands or other Hereditaments of the Perſon or Perſons by whom or on whoſe Behalf any ſuch Requeſt ſhall be made, than the ſaid Commiſſioners ſhall eſtimate to be ſufficient to raiſe the Sum or Sums payable by ſuch Perſon or Perſons for the Purpoſes aforeſaid, and the reaſonable Expences of Sale, and if there ſhall be any Surplus ariſing from ſuch Sale, after paying the Sums ſo directed to be raiſed and the reaſonable Expences of Sale, the ſame ſhall be applied in the Manner hereinbefore directed for the Application of the Surplus of Money paid in Compenſation for the Tythes of old Incloſures.

XXVII. And

Commissioners empowered to set out Common Pastures.

XXVII. And it is hereby further enacted, That in case any of the Proprietors entitled to Rights of Common in or over the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, shall request to have their Common Rights compensated by a Common Pasture, instead of distinct Allotments of Land, and shall give Notice thereof to the said Commissioners within such Time as the said Commissioners shall for that Purpose appoint, and the Commissioners shall be of Opinion that the Number of Proprietors who have made such Request shall be sufficient to enable the said Commissioners to set out such an Allotment as will answer the Purpose of a Common Pasture, then it shall be lawful for the said Commissioners and they are hereby required to set out and allot, to and for the Proprietors making such Requeſt, from and out of such Part of the Commmon Greens, Common Pastures, and Waste Lands aforesaid, most convenient for that Purpose, such Parcel or Parcels thereof as shall in the Judgement of the said Commissioners be an Equivalent and Compensation for the Right of Common to which the Proprietors making such Requeſt shall be entitled; and if it should appear to the said Commissioners (without any such Requeſt to them made), that any of the Common Greens, Common Pastures or Waste Lands, within the said Parish of *Barton-in-the Clay*, by reason of Situation, the Smallness of the Quantity, or Intersection by Roads or other Circumstances, cannot be divided and inclosed to the Advantage of the Persons interested therein, the said Commissioners are hereby authorized to set out and allot the Herbage of such Common Greens, Common Pastures or Waste Lands, as and for a Common Pasture or Common Pastures, to such of the Proprietors of, or Persons having Common Rights or other Interests in the Lands and Grounds hereby directed to be divided and allotted, to whom the same shall in the Judgement of the said Commissioners be most convenient and valuable in Situation, in or towards Satisfaction for the Rights and Interests of such Proprietors respectively, and the Land so to be allotted for Common Pastures, whether the same shall be allotted at the Request of such Proprietors as aforesaid, or without such Request, shall be used and enjoyed by the respective Proprietors to whom the same shall be allotted, and by their Successors and Tenants respectively, in such Proportions, and shall be stocked with such Kinds and Number of Cattle, and at such Seasons and Times of the Year, and subject to such Regulations and Orders for the equitable Enjoyment thereof, as the said Commissioners by the Award to be by them made shall establish and direct, and the Soil of the Land which shall be so allotted for Common Pastures shall, by virtue of this Act, immediately on the Allotment thereof, be vested in the Lord for the Time being of the said Manor of *Barton-in-the-Clay*, as the Conservator and Trustee of every such Allotment, for the Persons to whom the Rights of Common thereon shall be allotted.

Commissioners may extinguish or suspend Rights of Common;

XXVIII. And be it further enacted, That it shall be lawful to and for the said Commissioners, at any Time when they in their Judgement shall think it convenient and proper, by Notice for that Purpose under their Hands to be affixed on the South Door of the Parish Church of *Barton-in-the-Clay* aforesaid, on some *Sunday* before and there to remain until after Divine Service, to order the Right of Common in, upon, and over the Lands and Grounds hereby directed to be divided and allotted, or any of them, to be extinguished either in Whole or in Part, or to be suspended,

and from and after the Time to be mentioned in and fixed by any such Notice, all such Right of Common as shall thereby be directed to be extinguished or suspended shall cease and be extinguished, or shall be suspended according to and as shall be expressed in and directed by such Notice; and until such Division and Allotment as is hereby directed shall have been made of the Lands and Grounds to be divided and allotted, all such Lands and Grounds shall be stocked with such Cattle, and at such Times, and in such Manner only, and the Tillage Lands shall be sown by the respective Occupiers thereof with such Sorts of Corn and Grain, and with such Kinds, Quantities and Qualities of Grass, Turnips or other Seeds, and shall be kept, ordered and continued in such course of Husbandry and Tillage as the said Commissioners shall by Writing under their Hands in that Behalf direct; any Usage or Custom to the contrary notwithstanding; and that no Meadow, Pasture or fresh Ground, Part of the Lands and Grounds hereby directed to be divided and allotted, and not in Tillage at the passing of this Act, shall, without the Consent in Writing of the said Commissioners be before the Allotment thereof ploughed, broken up or converted into Tillage; and every Occupier of any such Land or Ground, who shall refuse or neglect to comply with any such Direction of the said Commissioners, or who shall plough, break up or convert into Tillage any such Meadow, Pasture or fresh Ground, without the Consent in Writing of the said Commissioners, shall forfeit and pay a Sum not exceeding Ten Pounds nor less than Twenty Shillings for every Acre of such Tillage Land with respect to which such Refusal or Neglect shall happen, and for every Acre of such Meadow, Pasture or fresh Ground which shall be ploughed, broken up or converted into Tillage, and so in proportion in each Case for a greater or less Quantity than an Acre, to be levied and recovered in the Manner hereby directed for the Recovery of the Charges and Expences of passing this Act and carrying the same into Execution.

and may direct the course of Husbandry.

Satisfaction to be made for Tillage, &c.

XXIX. And be it further enacted, That the Proprietors whose Allotments on the said Division shall have been tilled, ploughed, sown, folded or manured by any former Proprietor or Occupier thereof, shall pay to the Person or Persons respectively who shall have tilled, ploughed, sown, folded or manured the same, or any Part thereof, his, her or their Executors or Administrators, such Sum and Sums and at such Time and Times as the said Commissioners shall think reasonable, and shall by Writing under their Hands ascertain and direct; and if by the Mismanagement of any former Occupier, or by reason of the preceding course of Husbandry or Treatment of the Land, or by any other Means it shall happen that the Allotment or Allotments to any Proprietor shall not contain a due and reasonable Proportion of Land in a proper State for a Wheat or other Tilth Crop, or if any such Allotment shall in the Judgement of the said Commissioners be from any Cause in a worse Condition to be occupied than the Average of the Land allotted by virtue of this Act, then the Person or Persons to whom any such Allotment or Allotments shall be made, shall receive such Compensation and Satisfaction from any other of the Proprietors or from any of the former Occupiers, as the said Commissioners shall determine and adjudge to be just and equitable; and in case any of the Sums which shall by the said Commissioners be directed to be paid as aforesaid, shall not be paid to the Person or Persons to whom the said Commissioners shall direct the same to be paid, and at the Time or Times

Times to be by the ſaid Commiſſioners appointed for Payment thereof, it ſhall be lawful for them and they are hereby required to levy the ſame, in like Manner as the Expences of paſſing this Act and carrying the ſame into Execution are directed to be raiſed and levied.

Land may be deducted from Allotments for Expences;

XXX. And be it further enacted, That it ſhall be lawful to and for the ſaid Commiſſioners, upon the Requeſt in Writing (to be delivered to the ſaid Commiſſioners within ſuch Time as they ſhall for that Purpoſe appoint) of any of the Owners or Proprietors of the Lands and Grounds hereby directed to be divided and allotted, or of any Right or Intereſt therein, whether ſeiſed in Fee or being Tenants in Tail or for Life or Lives, or for any Number of Years determinable on a Life or on Lives, or for any other determinable Eſtate or Intereſt, or at the Requeſt of the reſpective Huſbands, Guardians, Truſtees, Committees, Agents or Attornies of or for any ſuch Owners or Proprietors being under Coverture, Minors, Lunatics, or beyond the Seas, or under any other Diſability or Incapacity, or for the Perſons acting as ſuch Guardians, Truſtees, Committees, Agents or Attornies, or of the Truſtees for any Charitable or Public Uſes, or the major Part of them reſpectively, to deduct from the Value and Amount of the Allotment or reſpective Allotments of ſuch Owner or Owners, by whom or on whoſe Behalf ſuch Requeſt ſhall be made as aforeſaid, ſo much as ſhall in the Judgement of the ſaid Commiſſioners be equal to his, her, or their Share and Proportion, or reſpective Shares and Proportions of the Charges and Expences of paſſing this Act and of carrying the ſame into Execution; and to allot, award, and divide the Land and Value ſo deducted to and amongſt ſuch of the Owners and Proprietors as ſhall by the ſaid Commiſſioners be charged with and ſhall pay ſuch Charges and Expences, in proportion to the Sums they ſhall reſpectively pay or contribute thereto; provided, that it ſhall be lawful to and for the ſaid Commiſſioners, and they are hereby required upon any ſuch Requeſt as aforeſaid, and upon Payment, by the Perſon or Perſons making ſuch Requeſt, of his, her, or their full Proportion of ſuch Coſts and Expences, to allot to the Perſon or Perſons reſpectively by whom or on whoſe Behalf ſuch Requeſt and Payment ſhall be made, his, her or their Heirs and Aſſigns, the Land which ſhall have been ſo deducted; and the Perſon or Perſons reſpectively to whom any ſuch Allotment ſhall be made and awarded, ſhall be and become ſeiſed thereof of an abſolute Eſtate in Fee Simple, freed and diſcharged from all former Titles, Charges, and Incumbrances.

and may be allotted to Perſons paying ſuch Expences.

Proprietors may ſell their Allotments before the Execution of the Award, and their Rights of Common ſeparately from their other Property.

XXXI. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons who ſhall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, ſell, demiſe, mortgage, convey, aſſure and diſpoſe of the ſame at any Time before the Execution of the Award of the ſaid Commiſſioners, and every ſuch Gift, Grant, Bargain, Sale, Demiſe, Conveyance and Diſpoſition thereof, as well by Will as by any other Inſtrument or Aſſurance, ſhall be of the ſame Force and Validity as if made after the Execution of the ſaid Award, and it ſhall alſo be lawful for any of the Owners or Proprietors of any Common Right upon the Lands and Grounds hereby directed to be divided and allotted, to ſell and diſpoſe of the ſame, or of the Allotment or Allotments to be made and ſet out in reſpect thereof by virtue of this Act, ſeparately

and

and distinctly from the Estate in Right of which he or she is entitled to the same, before the Execution of the said Award, in such Manner as he or she might have done at any Time after the Execution thereof; and it shall be lawful for the said Commissioners, and they are hereby authorized and empowered to award all and every such Allotment or Allotments as shall be so sold and disposed of to the Purchaser or Purchasers thereof, or other Person or Persons who shall be entitled to the same by virtue of any such Sale or Disposition.

Land held by different Tenures or Titles by the same Proprietor to be distinguished.

XXXII. And be it further enacted, That where any Person or Persons shall be seised or possessed of Lands or other Hereditaments, in the said Parish of *Barton-in-the-Clay*, held by different Tenures, or for, by, or under different Estates or Titles, the said Commissioners shall and they are hereby authorized and required, upon the Request of the Persons so seised or possessed respectively, to inquire into, ascertain and determine, by the Examination of Witnesses on Oath or other sufficient Evidence, the respective Lands or other Hereditaments held by such different Tenures, or for, by or under such different Estates or Titles respectively, and to set out distinct Allotments in respect of such Parts thereof, as shall be or arise within the Common and Open Fields, or other the Lands and Grounds hereby directed to be divided and allotted, Regard being had to the Deductions which shall have been made for Tythes of old Inclosures held by the same Tenures and for the same Estates respectively; and the said Commissioners also shall and they are hereby authorized, upon such Request as aforesaid, to distinguish, ascertain and set out by Metes and Bounds the Buildings and old Inclosures in the said Parish, held by such several Tenures, and for, by or under such different Estates or Titles, and all the Lands and other Hereditaments to be so ascertained, distinguished and set out, shall be declared, set forth and described in the Award of the said Commissioners.

Lands held by different Tenures or Titles omitted to be distinguished by the Award may be afterwards distinguished by a separate Instrument.

XXXIII. And be it further enacted, That where the Proprietor or Proprietors of any Allotment, Land or other Hereditaments, in the said Parish of *Barton-in-the Clay*, shall hold his, her or their respective Lands and Hereditaments by different Tenures, or for, by or under different Estates or Titles, and where, from Want of the necessary Information before the said Commissioners, or from any other Cause, the Award of the said Commissioners shall have omitted to distinguish the Lands, or other Hereditaments holden by such several Tenures, or for, by or under such different Estates or Titles, or to set out and award several and distinct Allotments for any such respective Lands or other Hereditaments, as herein-before is required, it shall be lawful for the said Commissioners, and they are hereby authorized, at any Time and from Time to Time within Seven Years after the Date and Execution of their Award, upon Request in Writing to them made by the respective Proprietors of any such Lands or other Hereditaments, to do all such Acts as shall be necessary for supplying any such Omission, and for that Purpose to examine Witnesses, and to proceed as if their Award had not been made, and by any Deed or Instrument under their Hands and Seals to distinguish, ascertain and set out the Lands and Hereditaments held by different Tenures, or for, by or under different Estates or Titles respectively, in the same Manner as they are hereby authorized and required to do in Cases where such Lands and Hereditaments

ments are directed to be ascertained, distinguished and set out by the General Award; and every such separate Instrument shall be inrolled in the same Place as the General Award shall be inrolled, and Evidence thereof shall be given in the same Manner as by the said Act of the Forty-first Year of His present Majesty, and this Act, or either of them respectively, is directed concerning the said General Award of the said Commissioners; and all the Expences which shall be reasonably incurred in or about any such subsequent Inquiry and separate Instrument as aforesaid, shall be paid by the Person or Persons who shall have requested the said Commissioners to make and execute the same, or by his or their Heirs, Executors, or Administrators.

Power of Exchange.

XXXIV. And be it further enacted, That it shall be lawful for the said Commissioners to assign and set out, allot, and award any of the Allotments to be made by virtue of this Act, or any Part or Parts of such Allotments, or any Manors, Messuages, Cottages, old Inclosures, Lands, Tenements, Rents, Commons, or other Hereditaments, situate or arising within the said Parish of *Barton-in-the-Clay*, in lieu of and exchange for any other Manors, Messuages, Cottages, old Inclosures, Lands, Tenements, Rents, Commons or other Hereditaments, situate or arising in the same Parish or any other Parish or Place adjoining thereto, so as every such Exchange be ascertained, declared and set forth in the Award of the said Commissioners, or in some other Instrument to be executed by them before the Execution of the said Award, and be made with the Consent and Approbation of the respective Proprietors or other Person or Persons, Bodies Politic or Corporate, seised or possessed, or in Receipt of the Rents or other Profits of the Heriditaments which shall be so exchanged, whether such Proprietor or Proprietors be Tenant or Tenants in Fee Simple, in Tail or for Life, or for Years determinable on a Life or Lives, or by and with the Consent of the Husbands, Trustees, or Guardians, Committees or Attornies of or for any such Proprietors, who at the Time of making any such Exchange shall be under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability or Incapacity of acting for themselves, or of the major Part of the Trustees for any charitable or public Use respectively, and so as every such Exchange of Hereditaments belonging to any Ecclesiastical Benefice, be made with the Consent of the Bishop of the Diocese in which such Hereditaments shall be situate, and the Patron or Patrons of such Benefice for the Time being, such Consents to be respectively testified by Writing under the Hands of the consenting Parties, or under the Common Seal of any of them being a Corporation Aggregate; and that every such Exchange so to be made and declared, shall, as well in respect of the Hereditaments within the said Parish of *Barton-in-the-Clay*, as in respect of the Hereditaments within any such other Parish or Place as aforesaid, be for ever good, valid, and effectual in the Law to all Intents and Purposes whatsoever; and that the respective Hereditaments so to be exchanged, shall go and remain to and upon the same Uses and Trusts, and be subject to the same Powers, Conditions, Mortgages, Leases, Incumbrances, Covenants, and Agreements, as the Hereditaments in respect whereof the same shall be exchanged, are or shall be subject and liable to, or would have been subject and liable to in case the Exchange thereof had not been made.

Power to enfranchiſe Copyholds.

XXXV. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioners and they are hereby empowered, with the Conſent in Writing of the reſpective Lords of the Manor or Manors of whom any Meſſuages, Cottages, Lands, or Tenements in the ſaid Pariſh of *Barton-in-the Clay* are or ſhall be holden by Copy of Court Roll, and of the Cuſtomary Tenant or Tenants by whom any ſuch Meſſuages, Cottages, Lands, or Tenements ſhall be reſpectively holden, or of the Huſbands, Truſtees, or Guardians, Committees or Attornies of and for any ſuch Lord or Lords, Tenant or Tenants, being Femes Covert, Minors, Lunaticks, beyond the Seas, or under any other Diſability or Incapacity, in and by the Award of the ſaid Commiſſioners, or by any other Writing to be ſigned and ſealed by them before the Execution of the ſaid Award, to declare any ſuch Copyhold or Cuſtomary Meſſuages, Cottages, Lands, or Tenements to be enfranchiſed, and the Tenures by which the ſame are holden, and the Fines, Heriots, and other Services incident thereto, to be diſcharged and extinguiſhed, and that the ſame Meſſuages, Cottages, Lands, or Tenements, or any Part or Parts thereof reſpectively, ſhall thenceforth be holden of the Lord or Lords of the ſame reſpective Manors, either by the Rents which ſhall have been theretofore paid or payable in reſpect thereof, or by any other Rent or Rents to be in ſuch Writing or Writings aſcertained and declared, or without Rent and in lieu of and compenſation for every ſuch Enfranchiſement to award to the reſpective Lord or Lords of the ſame Manor or Manors ſuch Sum and Sums of Money to be applied in the Manner herein-after directed, or to aſſign and ſet out to and for ſuch Lord or Lords reſpectively ſuch Compenſation by Part of the Copyhold Lands and Tenements to be enfranchiſed, or by and out of any of the Lands and Tenements hereby directed to be divided and allotted, or any other Lands, Tenements, or Hereditaments of any ſuch Cuſtomary or Copyhold Tenant or Tenants reſpectively, in the ſaid Pariſh of *Barton-in-the-Clay*, as ſhall in the Judgement of the ſaid Commiſſioners be an Equivalent and Satisfaction for the cuſtomary Payments, Burthens, and Services to which ſuch Copyhold Meſſuages, Cottages, Lands, or Tenements reſpectively, ſhall have been ſubject or liable, and the Lord or Lords for the Time being of the Manor to whom any ſuch ancient Rent ſhall be reſerved and continued, or any other Rent aſſigned, ſhall have the like Powers and Remedies for the Recovery of ſuch Rents reſpectively, as by the Laws of this Realm are given for the Recovery of Rents, Seck Rents of Aſſize, and Chief Rents; and from and after any ſuch Declaration ſhall be made and executed, and ſuch Sum of Money or other Compenſation ſhall be paid or aſſigned in exchange for ſuch Copyhold Tenure, the Lands and Tenements in every ſuch Declaration compriſed and thereby expreſſed to be enfranchiſed, ſhall be held, poſſeſſed, and enjoyed by the Owner or Owners thereof, paying or making ſuch Compenſation, their reſpective Heirs or Aſſigns, or other Perſons claiming in Reverſion or Remainder of the Lord or Lords of ſuch Manors reſpectively, in free and common Socage diſcharged of the Tenure by Copy of Court Roll, and of all Services and Duties incident to ſuch Tenure, and of all other Services and Payments, except the Rent or Rents which may be continued or reſerved to ſuch Lord or Lords in reſpect thereof; and the Lands or other Hereditaments ſo to be aſſigned to ſuch Lord or Lords ſhall be by him or them, and by his or their Heirs, Succeſſors, or Aſſigns, or by the Perſon or Perſons who ſhall be entitled in Reverſion or Remainder to ſuch Manor or

Manors

Manors respectively, held and enjoyed in Compensation for the Tenure so to be extinguished, for such and the like Estates, and upon and for such Uses, Trusts, Intents, and Purposes as the Manor or Manors of which the Copyhold Hereditaments so enfranchised shall be holden, shall at the Time of every such Enfranchisement stand settled and limited.

Application of Money to be received for Enfranchisement.

XXXVI. Provided, and be it further enacted, That the Money to be received for the Enfranchisement of any Copyhold Lands or Tenements in pursuance of this Act, shall be paid to the Lord or Lords of the Manor or Manors respectively, of whom the Copyhold Hereditaments so to be enfranchised, shall at the Time of the Enfranchisement thereof be holden, where such Lord or Lords shall be seised of such Manor or Manors in Fee Simple, and in all other Cases the Money to be received for any such Enfranchisement, shall be paid and applied in the Manner directed by the said Act of the Forty-first Year of the present Reign, with respect to Money to be paid for the Purchase or Exchange of any Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses.

Settlements, &c. not to be affected, nor Wills revoked.

XXXVII. Provided always, and be it further enacted and declared, That nothing in this Act contained shall extend or be construed or adjudged to extend to revoke, make void, annul, or alter any Settlement, Deed, Will, or Lease, or to prejudice any Person having any Right or Claim of Dower, Jointure, Annuity, Rent, Debt, Charge, or Incumbrance whatsoever, in, out of, upon, or affecting any of the Lands, Tenements, or Hereditaments hereby directed to be divided and allotted, or which shall be exchanged or assigned in Compensation for any other Estate or Right in pursuance of this Act respectively, but as well the Lands allotted as the Tenements and other Hereditaments which shall be assigned in Exchange or in Compensation for any other Estate or Right shall immediately after such Allotment, Exchange, or Assignment shall be made, be vested, remain, and enure, and the several Persons to whom the same shall be allotted, assigned, or given in Exchange as aforesaid, shall thenceforth stand and be seised and possessed thereof respectively, to, for, and upon such and the same Uses, Estates, Intents, Trusts, and Purposes respectively, and subject and liable to such and the same Wills, Settlements, Limitations, and Remainders, Conditions, Charges, Tenures, Rents, Services, and Incumbrances as the several Lands, Tenements, and Hereditaments in respect whereof such Allotments, Assignments, and Exchanges shall have been made, should or would have stood severally limited, settled, vested, or subject or liable to, or been held by in case the same had not been allotted, assigned, or exchanged, and this Act had not been made, save and except such Rents and Services as shall have been compensated for and extinguished, and such Leases and Tenancies at Rack Rent as shall become void by virtue of this Act, and subject nevertheless to all such Mortgages and Sales as shall be made by Authority of this Act, or of the said Act of the Forty-first Year of the present Reign.

Leases at Rack Rent may be determined.

XXXVIII. And be it further enacted, That it shall be lawful for the said Commissioners, if they in their Discretion shall think fit, to determine all and every or any Lease or Leases, Agreement or Agreements at Rack Rent

Rent now subsisting for any Term of Years, or from Year to Year, or at Will, of any Part or Parts of the Lands and Grounds hereby directed to be divided and allotted, and of all or any Part of the Lands and Hereditaments within the Parish of *Barton-in-the-Clay* aforesaid, which shall be exonerated from Tythes, or exchanged by virtue of this Act, as to the whole or any Part of such Land in any such Lease to be comprised, at such Time or Times as the said Commissioners shall direct; and it shall be lawful for the said Commissioners to adjudge and determine what Satisfaction shall be made by the respective Lessors or Landlords to the Lessees or Tenants respectively, for the Determination of their Interests in such Lands and Hereditaments, and upon Payment, at the Time or Times by the said Commissioners to be appointed, of the Sum or Sums which shall be so adjudged to be paid, and not otherwise, such respective Interests shall cease and determine.

Leases by the Rector not to be valid without the Consent of the King's most Excellent Majesty.

XXXIX. And be it further enacted, That no Lease to be granted by virtue of the said Act of the Forty-first Year of His present Majesty by the Rector of the said Parish of *Barton-in-the-Clay* or his Successors, of any Lands or Grounds to be allotted to him or them by virtue of this Act, in Right of the Rectory of *Barton-in-the-Clay* aforesaid, shall be good, valid, or effectual without the Consent of the King's most Excellent Majesty, His Heirs or Successors, as Patron of the said Rectory, shall be had and obtained thereto previously to the Execution of such Lease.

Money advanced to be repaid with Interest.

XL. And be it further enacted, That the Money which shall be advanced by any Person or Persons for the Purpose of defraying the Expence of applying for and obtaining this Act, or which after the passing of this Act shall be advanced or lent to the said Commissioners for carrying the same into Execution, shall be paid with lawful Interest to the Person or Persons who shall have advanced the same, his, her, or their Executors or Administrators, out of the first Money to be raised for defraying the Expences of obtaining and executing this Act.

Expences of the Act.

XLI. And be it further enacted, That the Costs and Charges of, incident to, and attending the obtaining and passing this Act, of surveying, admeasuring, planning, dividing, and allotting the Common and Open Fields, Common Pastures, and other Commonable and Waste Lands hereby directed to be divided and allotted, and exonerated from Tythes, and of surveying, admeasuring, and valuing the Lands and other Hereditaments in the said Parish of *Barton-in-the-Clay*, and of fencing the Tythe Allotments, and making the public Roads to be set out, and of preparing and inrolling the Award of the said Commissioners, and all the Charges and Expences of the said Commissioners and of the Umpire hereby appointed, and of the several Persons to be employed by them either before or after the Execution of the said Award, shall be borne and defrayed by the Proprietors and Owners of or Persons having Rights or Interests in the Lands and Grounds hereby directed or authorized to be divided, allotted, exonerated from Tythes, (except the Rector of the said Parish of *Barton-in-the-Clay*, in respect of the Allotments to be made to him in lieu of Tythes or Glebe), in such Proportions, and shall be paid to such Person and Persons, and at such Time or Times, either before or after the Execution of the said Award, as shall be settled, adjusted, determined,

and directed by the ſaid Commiſſioners by any Writing under their Hands, and the ſame ſhall and may be levied and recovered by the Means and in the Manner provided by the ſaid Act of the Forty-firſt Year of the preſent Reign.

Payment of Expences of Sales of Exchanges.

XLII. And be it further enacted, That all Coſts, Charges, and Expences attending any Sales, Exchanges, or Partitions to be made by virtue of this Act or the ſaid recited Act, ſhall be paid, borne, and defrayed by the ſeveral Perſons whoſe Eſtates ſhall be ſold, exchanged, and parted, in ſuch Manner and Proportions as the ſaid Commiſſioners ſhall by any Writing under their Hands order and direct, and ſhall be recovered in the ſame Manner as is herein-before directed reſpecting the Recovery of the Charges and Expences of executing this Act.

Commiſſioners may raiſe Arrears of Rates after the Execution of their Award.

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

Allowance to Commiſſioners and Umpire.

XLIV. And be it further enacted, That each of the ſaid Commiſſioners and the Umpire acting in the Execution of the Truſts and Powers hereby veſted in them, and the Clerk to be by them employed, ſhall each be allowed and paid, in Satisfaction for his Trouble and Expences, the Sum of Two Pounds Twelve Shillings and Sixpence for every Day on which he ſhall be employed in travelling to, attending in or returning from ſo acting; and that at all Meetings to be held in purſuance of this Act, the ſaid Commiſſioners and their Clerk and all Perſons attending ſuch Meetings ſhall pay their own Expences.

Commiſſioners to lay Accounts before One Juſtice.

XLV. And be it further enacted, That Once at leaſt in every Year during the Execution of this Act, (ſuch Year to be computed from the Day of the paſſing thereof), the ſaid Commiſſioners ſhall, and they are hereby required to make a true and juſt Statement or Account of all Sums of Money by them received and expended or due to them for their own Trouble and Expences in the Execution of this Act, and ſuch Statement or Account when ſo made, together with the Vouchers relating thereto, ſhall be by them laid before One of His Majeſty's Juſtices of the Peace for the ſaid County of *Bedford* (not intereſted in the ſaid Incloſure), to be by him examined and balanced, and ſuch Balance ſhall be by ſuch Juſtice ſtated in the Book of Accounts to be kept in the Office of the Clerk to the ſaid Commiſſioners; and no Charge or Item in ſuch Accounts ſhall be binding on the Parties concerned, or valid in Law, unleſs the ſame ſhall have been duly allowed by ſuch Juſtice.

Penalty on damaging Fences, &c.

XLVI. And be it further enacted, That in caſe any Perſon or Perſons ſhall wilfully and unlawfully break down, deſtroy, carry away, or damage any Fence, Stile, Poſt, Rail, Gate, Bridge, or Tunnel which may be put up or placed under the Authority and for the Purpoſes of this Act, every Perſon ſo offending and being thereof convicted before any Juſtice of the

Peace for the ſaid County of *Bedford*, on Confeſſion or on Proof of the Offence by Oath of One or more credible Witneſs or Witneſſes, (which Oath the ſaid Juſtice is hereby authorized to adminiſter), ſhall for every ſuch Offence pay to the Proprietor or Proprietors of the Fence, Stile, Poſt, Rail, Gate, Bridge, or Tunnel which ſhall be ſo broken down, deſtroyed, carried away or damaged, ſuch Fine and Penalty not exceeding Five Pounds, as ſuch Juſtice ſhall determine, direct, and order, and every Perſon ſhall be allowed to give Evidence of ſuch Offence notwithſtanding he may be a Proprietor or Occupier of Lands within or an Inhabitant of ſuch Pariſh, and notwithſtanding he may be the Owner of any ſuch Fence, Stile, Poſt, Rail, Gate, or Tunnel; and if any ſuch Fine or Penalty ſhall not be forthwith paid, the ſame ſhall by Warrant of ſuch Juſtice be levied by Diſtreſs and Sale of the Goods and Chattels of every ſuch Offender, and for want of Diſtreſs, in caſe the Fine or Penalty ſhall not be forthwith paid, it ſhall and may be lawful for ſuch Juſtice to commit every ſuch Offender to the Common Gaol or Houſe of Correction for the ſaid County of *Bedford*, there to remain without Bail or Mainprize for any Time not exceeding Three Calendar Months, unleſs ſuch Fine and all reaſonable Charges attending the Recovery thereof ſhall be ſooner paid.

Power of Appeal to the Quarter Seſſions.

XLVII. And be it further enacted, That if any Perſon or Perſons ſhall think himſelf, herſelf, or themſelves aggrieved by any Thing done by the ſaid Commiſſioners in purſuance of the ſaid recited Act or of this Act (other than and except ſuch Determinations of the Commiſſioners or Umpire as are by the ſaid recited Act or this Act declared to be final, binding, or concluſive, and except in Caſes where an Iſſue at Law may be tried as herein is mentioned), then and in every ſuch Caſe he, ſhe or they may appeal to the General Quarter Seſſions of the Peace to be holden for the ſaid County of *Bedford* next after Thirty Days from the Time when the Cauſe of Complaint ſhall have ariſen, giving to the ſaid Commiſſioners or any one of them, and to the Party or Parties concerned, Notice in Writing of ſuch Appeal and of the Matter thereof, within Twenty-eight Days after the Cauſe of Complaint ſhall have ariſen, and Fourteen Days at the leaſt before ſuch General Quarter Seſſions, 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 in their Diſcretion ſhall ſeem reaſonable, and by their Order or Warrant to levy the Coſts and Damages which ſhall be ſo awarded by Diſtreſs and Sale of the Goods and Chattels of the Party or Parties made liable to pay the ſame, rendering the Overplus (if any) to the Owner or Owners of ſuch Goods and Chattels, after deducting the reaſonable Charges of ſuch Warrant, Diſtreſs, and Sale; and every Order and Determination of the ſaid Juſtices upon every ſuch Appeal ſhall be final and concluſive to all Parties concerned, and ſhall not be removed or removable by *Certiorari* or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at *Weſtminſter* or elſewhere; but in caſe ſuch Appeal ſhall appear to the ſaid Juſtices to be frivolous, vexatious, or without Foundation, then and in ſuch Caſe the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants as to them in their Diſcretion ſhall ſeem reaſonable, and ſuch Coſts ſhall be levied in Manner aforeſaid.

Saving Rights of the Marquis of Bute as Lord of the Hundred of Flitt.

XLVIII. Provided, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, lessen, or affect any Right, Title, or Interest of the most Honourable *John* Marquis of *Bute*, Lord of the Hundred of *Flitt*, in the said County of *Bedford*, his Heirs, Successors, or Assigns, Lords of the said Hundred, of, in, or to any of the Seigniories, Royalties, Franchises, Rents, or Services incident or belonging thereto.

General Saving.

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

Printed Copy of the Act to be Evidence.

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

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