An Act for Inclosing Lands in the Parish of Badsey, in the County of Worcester (Royal Assent, 5 May 1812), 52 George III, 1812, Printed by Luke Hansard & Sons, near Lincoln's Inn Fields, London

Below is the front cover and first page of the printed Act of Parliament which may be viewed at the Worcestershire Record Office. This is followed by a full transcription of the Act.

AN

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FOR

Inclosing Lands in the Parish of *Badsey*, in the County of *Worcester*.

[ROYAL ASSENT, 5 *May* 1812.

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FOR

Inclosing Lands in the Parish of *Badsey*, in the County of *Worcester*.

[Royal Assent, 5 *May* 1812.]

Preamble.

WHEREAS there are several Open and Common Fields and other Commonable Lands in the Parish of *Badsey*, in the County of *Worcester*:

And whereas *Edward Wilson*, an Infant, is or claims to be Lord of the Manor of *Badsey*, which comprizes and extends over the whole of the said Parish:

And whereas the Dean and Chapter of the Cathedral Church of *Christ*, in *Oxford*, of the Foundation of King *Henry* the Eighth, are Patrons of the Perpetual Curacy of the Parish Church of *Badsey* aforesaid, and are Impropriate Rectors of the Rectory of the said Parish; and Owners of the Great and Rectorial Tythes thereof, (except as hereinafter mentioned) subject to a subsisting Lease of the same Tythes for the term of Twenty-one years, granted by them to *John Millard*, *John Benton*, and *Ann Slatter* Widow:

And whereas the said Dean and Chapter are also the Owners of certain Tythe of Hay arising, renewing, and growing in and upon certain Lands within the said Parish, subject to a subsisting Lease of the same Tythes for years, the beneficial Interest in which Lease now

98. A belongs

Preamble

Whereas there are several Open and Common Fields and other Commonable Lands in the Parish of Badsey, in the County of Worcester:

And whereas Edward Wilson, an Infant, is or claims to be Lord of the Manor of Badsey, which comprises and extends over the whole of the said Parish:

And whereas the Dean and Chapter of the Cathedral Church of Christ in Oxford, of the Foundation of King Henry VIII, are Patrons of the Perpetual Curacy of the Parish Church of Badsey aforesaid, and are Impropriate Rectors of the Rectory of the said Parish; and Owners of the Great and Rectorial Tythes thereof (except as hereinafter mentioned) subject to a subsisting Lease of the same Tythes for the term of 21 years, granted by them to John Millard, John Benton, and Ann Slatter, Widow:

And whereas the said Dean and Chapter are also the Owners of certain

Tythe of Hay arising, renewing, and growing in and upon certain Lands within the said Parish, subject to a subsisting Lease of the same Tythes for years, the beneficial Interest in which Lease now belongs to the Most Honourable Mary, Dowager Marchioness of Downshire:

And whereas the said Edward Wilson the Infant, and the Reverend Thomas Williams, Clerk, are or claim to be Owners in Severalty of the Great and Small Tythes growing, arising, or renewing in, out of, and upon Two half-yard Land belonging to them, the said Edward Wilson and Thomas Williams respectively, situate within the said Parish:

And whereas the Reverend Charles Phillott, Clerk, is the present Curate and Incumbent of the said Parish of Badsey, and as such is entitled to certain Glebe Land and Right of Common thereto belonging, and to certain Great and Small Tythes arising and renewing within the said Parish:

And whereas the said Edward Wilson, Thomas Byrd, Gentleman, and others, are Owners and Proprietors of the said Common Fields and Commonable Lands, and of all the old Inclosed Lands and Grounds within the said Parish:

And whereas an Act was passed in the 41st year of the Reign of His present Majesty, intitled "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 the Lands of the several Proprietors in the said Open Fields, lie intermixed and dispersed in small Parcels, and the same, as well as the Commonable Lands, in their present state, are incapable of any considerable Improvement, and it would be advantageous to the several Proprietors thereof and Persons interested therein, to have the same divided and allotted among them, in specific Shares, and their several Allotments inclosed; but such Division, Allotment and Inclosure, cannot be effected without the Authority of Parliament;

May it therefore please Your Majesty,

Commissioners

That is 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 Frederick Phelps of Evesham, and Henry Clarke, of Shipston upon Stour, both in the County of Worcester, Gentlemen, and their Successors, to be appointed in manner hereinafter mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and directing the Inclosure of the said Common Fields and Commonable Lands, and for executing the other Powers and all the Trusts hereby reposed in them, subject to the Rules, Orders and Directions of the said recited Act (except where the same are hereby varied or altered).

For appointing new

And be it further Enacted, that if any Commissioner named in this Act, or to be chosen in manner hereinafter mentioned, shall die, neglect, or refuse

to act, or become incapable of acting as a Commissioner in the execution of this Act, then it shall and may be lawful for the major part in value (to be ascertained by the Land Tax Assessment) of the Proprietors of the Lands and Grounds hereby directed to be divided, allotted and inclosed, assembled at a Meeting to be appointed for that purpose, of which Meeting Eight Days notice shall be given in the Worcester Newspapers, or One of them, and also affixed on the outer Door of the Parish Church of Badsey aforesaid, and they are hereby authorised from Time to Time within 14 days next after the neglect or refusal to act, or death or incapability of any Commissioner or Commissioners shall be known to them, by Writing under their hands to nominate and appoint one more Commissioner or Commissioners (not interested in the said Division and Inclosure) instead of him or them so dying, neglecting or refusing to act, or becoming incapable of acting as aforesaid.

Commissioners

And be it further Enacted, That after the said Commissioners shall have taken and subscribed such Oath as they are required to take, and before they proceed to any other business touching the execution of this or the said recited Act, they shall and they are hereby authorised and required to appoint some Person (not interested in the said Division and Inclosure) to be an Umpire between them, and in case such Person, or any other Person to be appointed an Umpire as hereinafter mentioned, shall die or refuse to act, or shall become incapable of acting as such, the said Commissioners shall and they are hereby required forthwith to appoint another Person (not interested in the said Division and Inclosure) to be an Umpire in his stead, and that whenever the said Commissioners shall differ or disagree in opinion, touching any matter or thing to be by them done or performed in pursuance of this or the said recited Act, then and in every such case the matter in question shall be determined by the Umpire to be appointed as aforesaid, whose Determination therein shall be deemed and acted upon as the Determination of the said Commissioners.

Umpire to be appointed

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

Umpire to be sworn

"I, ……., do Swear, that I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire, by virtue of an Act passed in the 52nd Year of the reign of King George III entitled [here insert the Title of this Act] according to equity and good conscience, and without favour or affection, prejudice or partiality to any Person or Persons whomsoever. So help me God."

Which Oath it shall be lawful for the said Commissioners or either of them to administer; and the said Oath so taken and subscribed by such Umpire, shall be annexed to and inrolled with the Award of the said Commissioners, and a Copy of the Inrolment thereof shall be admitted as legal evidence.

And be it further Enacted, that each of the said Commissioners shall be

Allowance to

paid and allowed the Sum of Three Pounds and Three Shillings for each Day he shall attend in the Execution of the several Powers and execution of the Trusts vested in him by this Act, and that he shall pay thereout his own Expenses.

Commissioners

And be it further Enacted, that the said Commissioners shall and they are hereby required to cause Notice in Writing of the Time and Place of their first and every subsequent Meeting for the exercise of the Powers and Execution of the Trusts hereby and by the said recited Act vested in them, to be affixed upon the principal Door of the Church of Badsey aforesaid, upon some Sunday before Divine Service, and to be published in the Worcester Newspapers or one of them, at least eight days before every such Meeting (Meetings by Adjournment only excepted), and all the Meetings of the said Commissioners shall be holden within the Parish of Badsey aforesaid, or within 8 Miles of the Boundary of the said Parish: provided always, that if only One Commissioner shall attend at any such Meeting, it shall and may be lawful for such Commissioner to adjourn such Meeting to a future time, not exceeding 14 Days from the day on which such Meeting was appointed to have been held, giving notice thereof to the absent Commissioners: Provided always, that all other Notices necessary or requisite to be given by the said Commissioners in pursuance of the said recited Act or this Act, shall be so given by Advertisement in the Worcester Newspapers or One of them.

Notice of Meetings

Other Notices how to be given

And be it further Enacted, that if any Dispute or Difference shall arise between any of the Parties interested in or claiming to be interested in the said Division and Inclosure, touching his, her, or their respective Rights or Interests, or the Quantities, Shares, and Proportions of and in the Lands and Grounds hereby directed to be divided, allotted and inclosed, which ought to be allowed to them or any of them upon the said Division, or between any Persons touching any Road or Way to be set out by virtue of this or the said recited Act, it shall be lawful for the said Commissioners to examine into, hear, and determine the same: provided always, that nothing in this Act contained shall authorise the said Commissioners or Umpire to determine the Title to any Messuages, Cottages, Lands, Tenements and Hereditaments whatsoever.

For determining Differences

Not to determine Titles

And be it further Enacted, that in case the said Commissioners shall upon the Hearing or Determination of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this or the said recited 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 whose Claim or Claims, Objection or Objections, shall be disallowed or over-ruled; and in case the Person or Persons who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on demand, then and in such case it shall and may be lawful to and for the said Commissioners, and they are hereby authorised and required by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by

For assessing Costs

Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

Allowing Parties to try their Rights at Law

Provided always, and be it further Enacted, that in case any Person or Persons interested or claiming to be interested in the said Division and Allotments, shall be dissatisfied with any Determination of the said Commissioners or Umpire, touching or concerning any Claim or Claims to the Right of Soil of the said Common and Waste Lands, or of any Rights of Common or other Interests or Rights in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, it shall and may be lawful for the Person or Persons dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire, at the then next or at the following Assizes to be holden for the County of Worcester, first giving 14 Days notice of such his, her, or their intention to the said Commissioners or their Clerk; and for that Purpose, the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners or Umpire, shall cause an Action to be brought in some or One of His Majesty's Courts of Law at Westminster, on a feigned Issue against the Person or Persons in whose favour such Determination shall have been made, within Four Calendar Months after such Determination of the said Commissioners or Umpire; and the Defendant or Defendants in such Action or Actions shall, and he, she or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto and file Common Bail, and accept one or more Issues or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted upon, may be tried and determined (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given in such Action or Actions, shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial or new Trials to be had therein, which it shall be lawful for the Court to do as is usual in other cases; and after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims thereby determined, according to the event of such Trial or Trials: provided always, that the Determination of the said Commissioners or Umpire touching such Claim or Claims to the Rights of Soil of the said Commons and Waste Lands, or of any Rights of Common or other Rights and Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final and conclusive to and upon all Parties.

In case of Deaths of Parties Actions

And be it further Enacted, that if any of the Parties in any Action to be brought in pursuance of this Act, shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in as if no such

event had happened.

not to abate

Provided always, and be it further Enacted, that if any Person or Persons in whose favour any such Determination as aforesaid shall have been made, and against whom any such Action or Actins might have been brought if living, shall died before any such 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, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same, within the time so limited as aforesaid, against such Person or Persons as is actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions, in the same manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the name or names of the Person or Persons so dead, and Proceedings shall be had therein in the same manner as if such Person or Persons had been actually living; and the Rights of all such Parties shall be equally bound and concluded by the event of such Action or Actions.

Provision in cases of Deaths of Parties before Actions brought

Provided also, and be it further Enacted, that nothing in this Act contained shall extend to enable the said Commissioners or Umpire to determine any Right between the Parties contrary to the Possession of any of such Parties (except in cased of Encroachments made within the period of 20 Years, as hereinbefore mentioned), but in case the said Commissioners shall be of opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up by or recovered from such Person or Persons by Ejectment or other due course of Law.

Persons in possession not to be molested without due course of Law

And be it further Enacted, that if any of the Parties interested in the said intended Division and Inclosure, shall die before the Execution of the Award of the said Commissioners, the Powers and Authorities hereby given to the said Commissioners shall not determine or be suspended, but the said Commissioners shall and may proceed to execute the Powers and Authorities given to them by this Act, in such manner as they might have done in case such Parties had not died; and that the Share or Shares of the Person or Persons so dying, shall be allotted to the Person or Persons who, by descent, will, or otherwise, shall be entitled to the same, and he, she or they shall accept and fence the Lands and Hereditaments to be allotted to him, her, or them, according to the Directions of this Act and the said recited Act, and shall in every other respect be subject to the Powers contained in the said Acts, and to the Rules, Orders, and Directions to be contained in the Award of the said Commissioners.

Death of Parties not to impede the Commissioners in the Execution of this Act

And be it further Enacted, that all Encroachments which at any Time within 20 Years last past have been made upon the Common and Waste Grounds hereby intended to be divided, allotted and inclosed, shall be deemed part thereof, and shall be divided and allotted accordingly; and in case any Dispute or Difference shall arise touching any such

Respecting Encroachments

Encroachments, or the extent thereof, such Dispute shall be investigated, settled and determined by the said Commissioners.

For stopping up and altering Roads

And be it further Enacted, that it shall be lawful for the said Commissioners, with the concurrence and order of Two Justices of the Peace for the said County of Worcester (subject to Appeal as in the said recited Act is mentioned) to stop up and discontinue any of the public Roads or Ways within the said Parish, which shall be deemed unnecessary, and to widen, turn or alter any such Roads or Ways as shall be deemed proper to be widened, turned or altered; and all such public Roads as shall be stopped up or discontinued, shall be deemed part of the Lands hereby intended to be divided, allotted and inclosed, and shall be allotted to such of the said Proprietors of the adjoining Lands as the said Commissioners shall think fit.

Lands to be allotted

And be it further Enacted, that all Open and Commonable Lands within the said Parish, and all Inclosures detached from Homesteads, and not exceeding in quantity Two Acres each; and also all Inclosures containing the Property of two or more Persons, and situate within One Fence; and also all Inclosures containing the Property of One Person only, if the same be held under different Tenures or Interests, shall be deemed and considered part of the Lands to be divided and allotted under this Act, and shall be divided an allotted accordingly.

Allotments for Stone and Gravel Pits

And be it further Enacted, that the said Commissioners shall and they are hereby required (if they shall think it necessary, but not otherwise) before they make any other Allotment of the said Common Fields and other Commonable Lands, to set out and allot such Part or Parcels of the said Commonable Lands within the said Parish as they shall think proper, not exceeding Two Acres, as and for public Stone and Gravel Pits, with convenient Roads and Ways to and from the same respectively, to be used in common by the respective Proprietors of Lands and Estates, and their Tenants, as well for their respective necessary Uses, within the said Parish, as for the repairs of the public and private Roads within the same; and such Allotment or Allotments shall be vested in the Surveyor of the Highways of the said Parish for the Time being, in Trust, for the Purposes aforesaid and shall be inclosed and fenced in such Manner as the said Commissioners shall in and by their Award order and direct.

Allotment for Right of Soil

And be it further Enacted, that the said Commissioners shall and they are hereby authorised and required to set out and allot unto and for the Lord or Lords of the Manor of Badsey aforesaid, such Parts of the Common and Waste Grounds hereby directed to be divided and allotted as in the judgment of the said Commissioners shall be equal in value to one-fifteenth part thereof (Roads excepted) in lieu of and as a full Recompense and Satisfaction for his or their Right of Soil in the said Common and Waste Grounds.

Allotment for Glebe and Right of Common

And be it further Enacted, that the said Commissioners shall in the next place set out, allot and award unto and for the said Charles Phillott, as Curate of Badsey aforesaid, and his Successors Curates as aforesaid for the time being, so much and such part and parts of the Lands and Grounds

hereby directed to be divided, allotted and inclosed, as in the judgment of the said Commissioners shall be a full Equivalent, Compensation and Satisfaction for all the Glebe Land and Right of Common belonging to him and them as Curates aforesaid, within the Open and Common Fields and other Commonable Lands of Badsey aforesaid.

Allotment in lieu of Tythes

And be it further Enacted, that the said Commissioners shall and they are hereby authorised and required to set out and allot, free from all Deductions and Expenses, unto and for the Impropriators of the said Rectorial or Great Tythes, and the several Persons entitled to Tythes within the said Parish of Badsey, and in lieu of their respective Tythes arising within the said Parish, such parcels of Lands and Grounds by this Act intended and authorised to be allotted and inclosed within the said Parish of Badsey, as in the judgment of the said Commissioners shall be of the value hereinafter mentioned.

Compensation to be Two-ninths of Arable and One-ninth of Pasture

And be it further Enacted, that the Compensation to be made under and by virtue of this Act for and in lieu of Tythes shall be as follows (that is to say); in all cases where both Great and Small Tythes are payable, it shall not be less than Two-ninths of the Arable Land, and to One-ninth of the Meadow and Pasture Grounds, Homesteads, Gardens, Orchards and Woodlands, out of which the said Great and Small Tythes issue; and in those cases where Tythes are only partially due and payable, it shall be such as in the judgment of the Commissioners shall be a full Equivalent, Compensation and Satisfaction for such Tythes as are due and payable; and the said Commissioners shall and they are hereby required to apportion the several Allotments which shall be set out as a Compensation for Tythes, between the respective Persons, according to their respective Proportions, Rights and Properties therein, and to cause such several Allotments to be respectively divided and inclosed in Severalty: provided always, that nothing in this Act contained shall prejudice, lessen or defeat the Right or Title of the Curate of Badsey aforesaid for the time being, to any Mortuaries, Easter Offerings or Surplice Fees arising or becoming due to him within the said Parish.

Mortuaries and Surplice Fees not to be affected by this Act

Directing Proprietors of old inclosed Lands, who have not Open Field Land sufficient to make Compensation for Tythes, to pay the value in Money to the Persons whose Land shall be taken for that purpose

And be it further Enacted, that in case any of the Owners or Proprietors of any Homesteads, Gardens, Orchards, Homecloses, or other inclosed Lands and Grounds within the said Parish of Badsey, shall not have or purchase, or otherwise be entitled to a sufficient quantity of the said Open and Common Fields, Commonable Lands, or other Lands and Grounds hereby directed to be divided, allotted and inclosed, to make Compensation for the Tythes of such Homesteads, Gardens, Orchards, Homecloses, and other inclosed Lands and Grounds, by such Allotments and in such Proportions as are hereinbefore directed respecting the Allotments for or in lieu of Tythes, such Proprietors shall respectively pay or cause to be paid to such Person or Persons, and at such time or times as the said Commissioners shall direct or appoint, such Sum and Sums of Money as the said Commissioners shall adjudge and determine to be a full Compensation and Satisfaction for the Tythes of such Homesteads, Gardens, Orchards, Homecloses, or other inclosed Lands and Grounds respectively, or for such Parts thereof for which a Compensation in Land cannot be made by the Proprietors thereof as aforesaid; which Sum or Sums of Money shall and

may be raised, levied and recovered in like manner as the Charges and Expenses of obtaining and passing this Act, and of carrying the same into Execution, are directed to be raised, levied, and recovered, and shall and may be applied in payment of such parts and proportions of the Expenses obtaining and executing this Act, as ought to be paid by the respective Persons whose Lands may be set out for discharging from Tythes such Homesteads, Gardens, Orchards and Homecloses, or other inclosed Lands and Grounds; and that in case such last-mentioned Sum or Sums of Money shall be more than sufficient to pay and discharge the said respective proportions of the Costs, Charges and Expenses of obtaining this Act, and of carrying the same and the said recited Act into Execution, the residue and remainder of such Sum and Sums of Money shall be divided amongst, and paid to the several Proprietors of the said Open and Common Fields, Commonable Lands, or other Lands and Grounds, whose Lands have been taken and appropriated for the purpose of discharging such last-mentioned old inclosed Lands from Tythes, in such proportions as they shall be respectively entitled thereto; and if any such last-mentioned Proprietors of the said Open and Common Fields, Commonable Lands, or other Lands and Grounds, shall not be Tenants in Fee Simple, then such Shares and Proportions of such Surplus Money shall be applied and disposed of in the same manner as any Sum of 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 Sum of Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same uses, is by the said recited Act authorised or directed to be applied and disposed of.

And be it further Enacted, that the said Commissioners shall set out and allot all the Rest, Residue and Remainder of the said Lands and Grounds by this Act directed to be divided and allotted, unto and amongst the several and respective Persons, Bodies Politic and Corporate, who at the time of making such Allotments shall be entitled to any Estate, Property, Common Right, or other Interest therein, according to their respective Rights or Interests, and in such Quantities, Shares, and Proportions the said Commissioners shall judge and deem to be a lawful Compensation for the several and respective Lands, Grounds, Rights, Properties, and Interests of each of the said Proprietors.

And be it further Enacted, that the said Commissioners shall and they are hereby required to cause the several Allotments which shall be set out as a Compensation for Tythes as aforesaid, to be inclosed and ring-fenced with Ditches and Quickset Fence, properly guarded on both sides with good Posts and Rails, and that the whole Expense of making and keeping such Fences in repair, for the space of Seven Years next after planting of such Quickset Fences (except on such parts as the said Commissioners shall order and direct to be fenced by some other Proprietors) shall be deemed and considered as part of the Expenses of carrying this and the said recited Act into execution, and be borne and defrayed accordingly.

And be it further Enacted, that the said Commissioners shall and they are hereby required by the Award to be by them executed, to direct and declare by whom, within what time, and how and in what manner the Fences

between the several Allotments to be set out and inclosed under and by virtue of this Act, shall be made and for ever after the making thereof be kept in repair: provided always, that convenient Gaps and Openings shall be left in the Fences to any Allotments to be made by virtue of this Act, for the space of Three Calendar Months next after the Execution of the said Award, for the passing of Cattle, Carts, and Carriages in and through the same, unless the said Commissioners shall in and by their Award, or other Instrument in Writing under their Hands, appoint a longer term for that Purpose, and then for such Time as they shall appoint.

Gaps to be left

And be it further Enacted, that it shall be lawful for the said Commissioners to set out, allot and award any Messuages, Buildings, Lands, Tenements or Hereditaments with the said Parish of Badsey, in lieu of and in exchange for any other Lands, Tenements and Hereditaments therein, or in any adjoining Parish, Hamlet, Township or Place, provided that all such Exchanges of any Messuages, Buildings, Lands, Tenements or Hereditaments, be made with the consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements or Hereditaments which shall be so exchanged whether such Owner or Owners, Proprietor or Proprietors shall be a Body or Bodies Politic or Corporate, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or special, or by the Courtesy of England, or for years determinable on any Life r Lives, or with the consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Lunatics, or under any other legal disability, or who shall be beyond the Seas, or otherwise disabled to act for themselves, himself or herself (such Consent to be testified in writing under the common Seal of the Body Politic, Corporate or Collegiate, and under the hands of the other consenting Parties respectively); and all and every Exchange or Exchanges so to be made, shall be good, valid and effectual in the Law to all intents and purposes whatsoever: provided nevertheless, that no Exchange shall be made of any Lands, Tenements or Hereditaments, held in right of any Church, Chapel or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Patron of such Church, Chapel or Benefice, and also of the Lord Bishop of the Diocese in which such Lands, Tenements or Hereditaments, so to be exchanged, shall lie and be situated, and all such Exchanges shall be ascertained, specified and declared in the Award of the said Commissioners.

For allowing Exchanges to be made

And be it further Enacted, that all Costs, Charges and Expenses attending the making of any Exchanges or Partitions by virtue of this or the said recited Act, shall be paid, borne and defrayed by the several Persons making such Exchanges or Partitions, in such manner and in such proportions as the said Commissioners shall by their Award order or direct.

Expenses of Exchanges and how to be paid

And be it further Enacted, that all and every Tenant and Occupier at Rack Rent under any Lease, Agreement or other Letting for any term or number of years, or from year to year, of any of the said Open Fields or Inclosures within the said Parish, which shall be allotted or exchanged by virtue of this Act or the said recited Act, shall upon the 29th Day of September next,

Leases at Rack Rent to be vacated

or at such other time either before or after the signing of the Award of the Commissioners, as they the said Commissioners shall appoint, and whereof Notice in writing shall be given by them for that purpose, give up and resign the peaceable Possession of such allotted or exchanged Lands, and the inclosed Lands and Tenements held therewith within the said Parish, to the Person or Persons to or with whom the same shall be respectively allotted or exchanged or belong, such respective Tenants and Occupiers of such allotted or exchanged Lands, old inclosed Lands and Tenements, recovering form such respective Owners and Proprietors thereof, such Satisfaction as the said Commissioners shall ascertain, order, direct or appoint to be paid to such Tenant or Tenants respectively on account thereof, or as an Equivalent for the Loss or Losses he, she or they shall respectively sustain thereby, and also for and on account of their respective following or away-going Crops (if entitled to any); and if the Money so to be ascertained as aforesaid, shall not be paid to the Person or Persons entitled to receive the same within 14 Days after demand made thereof, it shall be lawful for the said Commissioners, and they are hereby required to raise and levy the same for the use and benefit of the Person or Persons entitled thereto, by such ways and means as the Costs, Charges and Expenses of obtaining and executing this and the said recited Act may be raised and recovered, or the same may be recovered in an Action of Debt or on the Case, in any of His Majesty's Courts of Record at Westminster.

Wills and Settlements not to be affected

And be it further Enacted, that nothing in this Act contained shall extend or be concerned to extend to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents or Incumbrances, out of, upon, or affecting any of the Messuages, Lands, or Hereditaments to be divided, allotted or exchanged by virtue of this Act or the said recited Act, or any part or parts thereof respectively, but that the several Messuages, Lands and Hereditaments to be so as aforesaid divided, allotted or exchanged, shall immediately after making such Allotments and Exchanges, be, remain and enure, and the several Persons to whom the same shall be allotted or given in exchange, shall from thenceforth stand and be seized or possessed thereof respectively, to, for and upon such and the same Estates, Uses and Trusts, and subject to such and the same Wills, Settlements, Limitations, Remainders, Charges and Incumbrances, as the Messuages, Lands and Hereditaments in lieu whereof such Allotments and Exchanges shall be made, should or ought to have been held for or subject and liable to have been charged with and affected by, in case the same had remained unallotted, uninclosed and unexchanged, or this Act had not been made.

Respecting Watercourses

And be it further Enacted, that the said Commissioners may and they are hereby empowered in and by their Award, to direct and order any Streams, Springs or Watercourses in the said Parish, to be conveyed in such Courses and through such Lands as they in their discretion shall think proper, for the Purpose of draining any Land, or supplying any other Land with Water; provided always, that no such Streams, Springs or Watercourses shall be diverted or turned, without the consent in Writing of the Owner or Owners of the Lands from which such Streams, Springs or Watercourses shall be diverted, and of the Owner or Owners of Lands into which the same shall

be turned.

For directing the course of Husbandry

And be it further Enacted, that the said Commissioners shall and they are hereby required to order, direct and appoint the Course of Husbandry that shall be used in the Tillage parts of the said Common Fields, until such time as they shall have completed their Award, and that the Lands of all and every Person or Persons in the said Common Fields shall, during the time aforesaid, be subject and liable to such Orders and Directions as the said Commissioners shall by Writing under their Hands appoint, as well with regard to the stocking or depasturing with Cattle or Sheep, as to the manuring, ploughing, harrowing, sowing or laying down the same with Grass Seeds of any kind; and that the Costs and Charges attending the execution of any such or other Orders and Directions of the said Commissioners, which they are empowered to make by this or the said recited Act, and for the recovery of which no express Provision is hereby made, shall be paid by the Person or Persons so ordered to pay the same, unto such Person or Persons at such times and in such Shares and Proportions as the said Commissioners shall in and by their Award or any Order or Direction in Writing under their hands, to be signed antecedent to the execution of their Award, appoint, and shall be recovered by the ways and means hereinafter appointed for the recovery of the general Expenses of passing and executing the Powers of this Act.

To prevent depasturing Sheep on the Roads

And be it further Enacted, that it shall not be lawful for any Person or Persons, during the term of Seven Years next after the execution of the Award of the Commissioners, to depasture and keep any Cattle, Lambs or Sheep in or upon any of the Roads or Ways to be set out by the said Commissioners, in or over the Lands and Grounds hereby intended to be divided and inclosed, or in any of the intended new Inclosures to be made under this Act, unless the Person or Persons so depasturing or keeping such Cattle, Lambs or Sheep, do at his or their own expense effectually guard and fence his or their Neighbours Quicksets adjoining to such Roads or Ways, and Inclosures respectively, in which Cattle, Lambs or Sheep shall be depastured and kept as aforesaid, so as to prevent any damage or injury being done to such Fences or Quicksets by any such Cattle, Lambs or Sheep, and that the Persons so respectively despasturing or keeping Cattle, Lambs or Sheep in or upon the said Roads or Ways as aforesaid, or in the said new Inclosures, and neglecting or refusing to guard their Neighbours Quicksets as aforesaid, shall be liable in every case to pay all such Damages as shall be sustained by any other Persons whomsoever, by reason or on account of such depasturing and keeping Cattle, Lambs or Sheep as aforesaid, to be recovered by Action of Debt or on the Case in any of His Majesty's Courts of Record at Westminster.

For paying the Expenses of this Act

And be it further Enacted, that the Charges and Expenses incident to and attending the obtaining and passing of this Act, and of the surveying, measuring, planning, valuing, dividing, and allotting of the Lands and Grounds hereby intended to be divided, allotted and inclosed, and of the Messuages, Homesteads and old inclosed Lands, and the preparing and inrolling of the said Award or Instrument, with the Map or Plan of the said Parish annexed, and all the Costs and Charges attending the execution of this and the said recited Act, shall be borne and defrayed by all the Owners

and Proprietors of and Persons interested in the said Lands and Grounds so hereby intended to be divided, allotted and inclosed as aforesaid, and the said Messuages, Homesteads and old inclosed Lands and Grounds to be exonerated from Tythes by virtue of this Act (other than and except the said Dean and Chapter and their Successors, and the said John Millard, John Benton and Ann Slatter, and the said Dowager Marchioness of Downshire, their Lessees, and the said Charles Phillott and his Successors, Curates of Badsey aforesaid, and the Person or Persons to whom any Allotment or Allotments shall be assigned, from which any deduction shall be made for payment of Expenses) in such Shares and Proportions as the said Commissioners shall appoint, by a Rate or Rates to be made by them for that Purpose; and the several Sums of Money thereby rated shall be paid by such Person or Persons, and at such Time or Times and Place as the said Commissioners shall in and by their said Award, or by any other Writing to be by them signed, either before or after the Execution thereof, order and direct and in case of non-payment thereof, shall be recovered by the ways and means prescribed by the said recited Act: provided always, that it shall and may be lawful for the said Commissioners, upon the Request in writing of any One or more of the Owners and Proprietors of the Lands and Grounds hereby directed to be divided, allotted and inclosed, or of any Right or Interest therein, whether sized in Fee Simple, or being Tenants in Tail, or for Life or Lives, or for any number of Years determinable on a Life or Lives, or for any determinable Estate or Interest, not being a mere Tenancy at Rack Rent, or at the Request in writing of the respective Husbands, Guardians, Trustees, Committees, Receivers, Agents or Attornies of or for any such Owners and Proprietors, being under Coverture or Minors, Lunatics, or beyond the Seas, or under any other disability in incapacity, or for the Persons acting as such Guardians, Trustees, Committees, Receivers, Agents or Attornies, or of the Trustees for any Charitable or public Uses, or a competent number of such Trustees, or the major part of them respectively, to deduct from the Value and Amount of the Allotment or Allotments of such Owner or Owners, by, upon or on whose behalf such Request shall be made as aforesaid, so much Land as shall in the judgment of the said Commissioners be equal to the Share and Proportion, or respective Shares and Proportions of the Person or Persons, by or in whose behalf any such Request shall be made, of the Charges and Expenses of passing this Act and of carrying the same and the said recited Act into execution, and of inclosing and fencing their respective Allotments, and to sell the Land so to be deducted in manner directed by the said recited Act, to any Person or Persons whomsoever, and afterwards to award the same to the Purchaser or respective Purchasers thereof, who shall from thenceforth become seized thereof in Fee Simple in severalty, free from all Incumbrances, in manner directed by the said recited Act: provided always, that in all cases where any Land shall be deducted from the Allotment of any of the said Proprietors or Persons towards payment of Expenses as aforesaid, it shall not be lawful for the said Proprietors or Persons, from whose Allotment Land shall be deducted as aforesaid, to charge his or her Lands, Tenements or Hereditaments, by virtue of the said recited Act or this Act, with any Money towards payment of such Expenses: provided also, that the Quantity of Land so to be deducted from any such Allotment, shall not exceed in value the Money authorised by the said recited Act to be charged upon the Lands,

Empowering Commissioners to deduct Lands for Payment in certain cases

Not to deduct and borrow also

Tenements or Hereditaments of such Proprietors or Persons.

Money advanced to pay the Expenses of the Act to be repaid with Interest

And be it further Enacted, that the Money which shall be advanced and laid out in the Discharge of the Fees, or other Expenses of obtaining this Act, shall be paid to the Person or Persons advancing the same, together with the Interest thereof, after the rate of £5 per centum per Annum out of the Monies which shall be first raised to defray the Expenses by virtue thereof.

Auditor of the Commissioners Accounts appointed

And be it further Enacted, that Thomas Beale Cooper, of Bengworth, in the County of Worcester, Esquire, shall be and is hereby appointed Auditor of the said Commissioners Accounts, and in case of his death or refusal or incapacity to act, then some other fit and proper Person (not interested in the Premises) shall be appointed Auditor for the purpose by the majority in value of the said Proprietors, to be ascertained by the Land Tax Assessment, at a Meeting to be holden in like manner as is hereinbefore directed with respect to the Meeting of the said Proprietors for the appointment of a new Commissioners, and so from time to time as often as occasion shall require; and the Accounts of the said Commissioners for the time being, containing a true Statement of all Sums by them received and expended, shall at least once in every Year from the passing of this Act, until such Accounts shall be finally allowed, together with the Vouchers relating to the same, be examined by the Auditor for the time being and balanced, and such Balance shall be stated in the Book of Accounts to be kept in the Office of the Clerk to the said Commissioners; and that no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in the Law, unless the same shall have been duly allowed by such Auditor.

Award to be deposited

And be it further Enacted, that the Award to be made by the said Commissioners, when inrolled in manner directed by the said recited Act, shall, together with a Plan thereunto annexed, be deposited and kept in the Parish Church of Badsey aforesaid.

Allowing an Appeal to the Quarter Sessions

And be it further Enacted, that if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this or the said recited Act (other than and except in such cases where the Orders and Determinations of the said Commissioners are by the said recited Act or this Act directed to be final and conclusive, and except in cases where an Issue at Law shall be tried as hereinbefore mentioned) then and in every such case, he, she, or they may Appeal to the next General Quarter Sessions of the Peace which shall be holden for the said County of Worcester, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned 14 Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices of the said General Quarter Sessions (not interested in the Premises) are hereby authorised, empowered and required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering

the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by Writ of Certiorari, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at Westminster or elsewhere.

General Savings

Saving always to the King's Most Excellent Majesty, his Heirs and Successors, and to all and every Person and Persons, Bodies Politic, Corporate or Collegiate, his, her, and their Successors, Heirs, Executors, Administrators and Assigns (other than and except the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act, in respect to the Interest and Property for which such Allotment or Allotments shall be made, and his, her and their respective Successors, Heirs, Executors and Administrators, or any of them respectively) all such Right, Title, Estate, Interest, Claim and Demand, as they, every, or any of them had and enjoyed of, in, to, or in respect of the said Lands, Grounds, and Premises so directed to be inclosed as aforesaid, before the passing of this Act, or could or might have had and enjoyed in case the same had not been made.

1812.

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FOR

Inclosing Lands in the Parish of *Badsey*, in the County of *Worcester*.

[Royal Assent, 5 *May* 1812.]

Preamble.

WHEREAS there are several Open and Common Fields and other Commonable Lands in the Parish of *Badsey*, in the County of *Worcester*:

And whereas *Edward Wilson*, an Infant, is or claims to be Lord of the Manor of *Badsey*, which comprizes and extends over the whole of the said Parish:

And whereas the Dean and Chapter of the Cathedral Church of *Christ*, in *Oxford*, of the Foundation of King *Henry* the Eighth, are Patrons of the Perpetual Curacy of the Parish Church of *Badsey* aforesaid, and are Impropriate Rectors of the Rectory of the said Parish; and Owners of the Great and Rectorial Tythes thereof, (except as hereinafter mentioned) subject to a subsisting Lease of the same Tythes for the term of Twenty-one years, granted by them to *John Millard*, *John Benton*, and *Ann Slatter* Widow:

And whereas the said Dean and Chapter are also the Owners of certain Tythe of Hay arising, renewing, and growing in and upon certain Lands within the said Parish, subject to a subsisting Lease of the same Tythes for years, the beneficial Interest in which Lease now

 belongs