



ANNO QUADRAGESIMO SEXTO

GEORGII III. REGIS.

Cap. II.

An Act for inclosing Lands in the Parish of *Besthorpe* in the County of *Norfolk*. [22d March 1806.]

WHEREAS there are within the Parish of *Besthorpe* in the County of *Norfolk*, certain Commons and Waste Grounds: And whereas the Right Honourable *Edward Earl of Winterton* is Lord of the Manor of *Plashinghall Bridgmans and Pages*, in *Besthorpe*, and entitled to the Great or Rectorial Tythes arising within the said Parish of *Besthorpe*, and is also Patron of the Vicarage of *Besthorpe* aforesaid; of which the Reverend *Morgan Reynolds* is Vicar, and as such is entitled to the Parsonage House, and to the Small Tythes and Glebe Lands within the said Parish: And whereas the said Earl of *Winterton*, the Right Honourable *William Charles Earl of Albemarle, Cremer Cremer Esquire*, and divers other Persons, are respectively the Owners and Proprietors of all the Messuages, Cottages, Lands, and Tenements situate, lying, and being within the said Parish of *Besthorpe*: And whereas an Act was passed in the Forty-first Year of the Reign of His present Majesty, intituled, *An Act for consolidating in one Act, certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas it would be of great Benefit and Advantage to the several Proprietors of and Persons interested

Lords, etc.
of Manors.

Proprietors.

[Loc. & Per.]

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interested

Commissioners appointed.

interested in the said Commons and Waste Grounds, if the same were divided and inclosed, and specific Parts and Shares thereof assigned and allotted unto the several Persons interested therein, according and in Proportion to their several and respective Estates, Rights, and Interests; but, as such Division, Allotment, and Inclosure, cannot be effectually made and established without the Authority of Parliament; may it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *Thomas Glover Ewen* of the City of *Norwich*, *William Cockell* of *Attleburgh* in the County of *Norfolk*, and *John Futter* of *Ketteringham* in the said County, Gentlemen, and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for setting out, dividing, allotting, and improving the said Commons and Waste Grounds, and for carrying this Act into Execution; and they are hereby authorized and directed to assign, set out, and allot the said Commons and Waste Grounds, and to carry this Act into Execution, subject to such Directions and Provisions as are herein contained and provided in that Behalf, and also subject to such Powers, Authorities, Directions, Clauses, and Provisions contained in the said recited Act, as are not altered, varied, or otherwise provided for, in and by this Act; and that all Acts, Matters, and Things, authorized and necessary to be done and executed by the said Commissioners, in pursuance of the said recited Act and of this Act, may be done and executed by any Two of them, and the same shall be as good, valid, and effectual, and shall have the same Force and Effect, as if such Acts, Matters, and Things had been done by all the Commissioners herein named, or to be appointed in Manner herein-after mentioned.

For appointing new Commissioners.

II. And be it further enacted, That if any of the Commissioners herein named, or to be hereafter appointed, by virtue of this Act, shall, before the Execution of all the Powers and Authorities hereby vested in them, die or refuse or become incapable to act in the Execution of this Act, then and in every such Case it shall be lawful for the surviving or remaining Commissioner or Commissioners, and he or they is or are hereby required, at any Time within Forty Days next after such Death, Refusal, or Incapacity shall be known to him or them, by Writing under his or their Hand or Hands, to appoint another Person, not being interested in the Premises to be a Commissioner in the Room or Stead of each Commissioner so dying or refusing or becoming incapable to act; and every Commissioner so to be appointed as aforesaid, shall, after taking and subscribing the Oath or Affirmation prescribed in that Behalf, have the like Powers and Authorities for carrying the said recited Act and this Act into Execution, in all Respects as if he had been named and appointed a Commissioner in and by this Act.

Notice of Commissioners Meetings.

III. 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 other Meeting for the Execution of this Act, to be inserted in the *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper printed and circulated within the said County of *Norfolk*, Eight Days at least before every such Meeting (Meetings by Adjournment only excepted);

excepted); and if at any Meeting appointed to be held, by the said Commissioners, no more than one of the said Commissioners shall attend, such Commissioner may adjourn such Meeting to such Time and Place, within the said Parish of *Besthorpe*, or within Eight Miles thereof, as he shall think most convenient, giving Notice of such Adjournment to the absent Commissioners.

One Commis-
sioner may
adjourn.

IV. Provided always; and be it further enacted, That all other Notices necessary or requisite to be made, and given by the said Commissioners, in pursuance of the said recited Act, or of this Act, shall be made and given by Advertisement in the said *Norfolk Chronicle* or *Norwich Mercury*, or in some other Newspaper printed and circulated within the said County of *Norfolk*.

Other Notices
how to be
given.

V. And be it further enacted, That in order to shorten the Boundary Fence or Fences between the said Parish of *Besthorpe* and the Lands lying within any Parish or Parishes adjoining thereto, it shall and may be lawful to and for the said Commissioners (with the Consent in Writing under the Hand or Hands of the major Part in Value of the Land Owners in any Parish or Parishes adjoining to the said Parish of *Besthorpe*, and also under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manoir or Manoirs in any such adjoining Parish or Parishes) to set out, ascertain, and determine the Boundary Fence or Fences to be made between the Lands and Grounds lying within the said Parish of *Besthorpe*, and the Lands lying in such adjoining Parish or Parishes, as they shall judge proper for the Purposes aforesaid; and after the Boundaries shall be so set out, ascertained, and determined, such Fences shall be erected thereon, by such Person or Persons, in such Manner, and at such Time or Times as the said Commissioners shall direct; and the same shall for ever thereafter be deemed and taken to be the Boundary between the said Parish of *Besthorpe* and such adjoining Parish or Parishes; any Law, Usage, or Custom, to the contrary notwithstanding.

For shorten-
ing Boundary
Fences.

VI. And be it further enacted, That all Owners and Proprietors of Messuages, Cottages, or Dwelling Houses within the said Parish of *Besthorpe*, which have been erected Thirty Years, in respect of which a Right of Common upon the said Commons and Waste Grounds has been exercised during that Time without any lawful Interruption, shall, on their preferring their respective Claims in the Manner prescribed in that Behalf, have and be deemed to have a Right or Rights of Common over or upon the same, in respect of such Messuages, Cottages, or Dwelling Houses: Provided, that all such Messuages, Cottages, or Dwelling Houses, which shall have been erected and built on the Scite and in lieu of any ancient Messuages, Cottages, or Dwelling Houses, which may have been dilapidated or pulled down, although such new erected Messuages, Cottages, or Dwelling Houses shall have been erected and built within Thirty Years last past, shall be deemed to have such Right or Rights of Common over or upon the said Commons and Waste Grounds, as such Messuages, Cottages, or Dwelling Houses, in lieu of which such new erected Messuages, Cottages, or Dwelling Houses shall have been erected and built, would have been entitled to if they had been still standing.

Limitation of
Rights of
Common.

VII. And

Encroach-
ments.

VII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the said Commons and Waste Grounds to be divided, allotted, and inclosed by virtue of this Act (save and except such Parts thereof as have been inclosed by virtue of any Licence in Writing, or Consent or Grant from the Lord of the Manor before mentioned, and duly inrolled in the Court Books of the said Manor) shall be and be deemed to be Part of the said Commons and Waste Grounds, and shall be divided and allotted accordingly by the said Commissioners; and in case any Dispute shall arise touching any such Encroachments, or the Extent thereof, every such Dispute shall be determined by the said Commissioners.

Power to sell
Encroach-
ments, where-
on Houses are
erected, to the
Owners there-
of.

VIII. And be it further enacted, That in case any Cottages or other Buildings shall have been erected upon any Part of the said Commons and Waste Grounds, or upon any Encroachments which shall have been made thereon within Twenty Years now last past, (other than and except any Cottages or other Buildings which shall have been erected upon such Parts of the said Commons and Waste Grounds as shall have been inclosed by virtue of such Licence in Writing, or Consent or Grant as aforesaid) then the said Commissioners are hereby authorized and empowered, in case they shall think fit, to sell and dispose of such Encroachments whereon such Cottages or other Buildings shall stand, to the Owners of such Cottages or other Buildings, or any of them respectively, at such Price or Prices as the said Commissioners shall deem fair and reasonable, and in and by their Award to set out and allot the same to such Purchaser or Purchasers, his, her, or their Heirs accordingly; and the Monies arising from such Sale or Sales shall be applied in and towards the Payment of the Expences attending the passing and executing this Act.

Commission-
ers to settle
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 said intended Division and Allotments, touching or concerning the Right to the Soil of the said Commons and Waste Grounds, or any Part or Parts thereof, or touching or concerning any other Rights, Interests, Shares, and Proportions, which they or any of them shall have or claim to have, of and in the Lands hereby directed to be divided and allotted, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall be lawful for the said Commissioners, and they are hereby authorized and required, to examine into, hear, and determine the same: Provided, that nothing in this Act contained shall authorize the said Commissioners to determine the Titles to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commission-
ers not to
determine
Titles.

Commission-
ers to assess
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, or upon the Hearing and Determination of any Dispute or Difference as aforesaid, see Cause to award any Costs, it shall and may be lawful 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

missioners shall be made, by the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, whose Claim or Claims, Objection or Objections shall be thereby disallowed or overruled, or against whom the said Commissioners shall have determined as aforesaid; and in case the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, it shall be lawful for the said Commissioners, and they are hereby authorized, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus, if any, upon Demand, to the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale.

XI. Provided always, and be it further enacted, That in case any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, interested or claiming to be interested in the said intended Division and Allotments, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any of the Claims, Rights, or Interests intended to be affected by such Determination of the said Commissioners, it shall and may be lawful to and for the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matter so determined by the said Commissioners, at the then next or at the following Assizes to be holden for the said County of *Norfolk*; and for that Purpose, the Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, in whose Favour such Determination shall have been made, within Three Calendar Months after such Determination of the said Commissioners; and the Defendant or Defendants in such Action or Actions shall, and he, she, and they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file Common Bail; and accept one or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same); and the Verdict or Verdicts which shall be given upon the Trial of such Action or Actions, shall be binding, final, and conclusive, upon all and every Person and Persons, and Body or Bodies Politick, Corporate, or Collegiate, unless the Court wherein such Action or Actions shall be brought, shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, in case the said Court shall think proper; and it shall also be lawful for the Court, upon sufficient Cause shewn, to put off the Trial of such Issue as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained, and not set aside by the said Court, the said Commissioners shall and they are hereby required to act in conformity thereto; and to allow or disallow

[*Loc. & Per.*]

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Power allow-
ing Parties to
try their Rights
by an issue at
Law.

Determination
of Commis-
sioners to be
final, if not
objected to,
or no Action
brought.

If any of the
Parties die,
Proceedings
not to abate.

Disputes about
Titles not to
impede the
Proceedings,
or the Execu-
tion of this
Act.

No Flags, &c.
to be cut after
the passing of
this Act, with-
out leave of
the Commis-
sioners.

Commission-
ers may stop
up old Roads.

the Claim or Claims thereby determined, according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners, touching such Claim or Claims of Right to the Soil of the said Commons and Waste Grounds, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or of any Part thereof, which shall not be objected to within the Time aforesaid, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in within the Time and in Manner aforesaid, shall be final and conclusive upon all Parties: Provided also, 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.

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

XIII. And be it further enacted, That it shall not be lawful for any Person or Persons, from and after the passing of this Act, to cut, dig, pare, grave, flay, take or carry away, any Flags, Whins, or Furze, in, upon, or from the said Commons and Waste Grounds, or any Part thereof, without the Licence of the said Commissioners in Writing first had and obtained for that Purpose (which Licence the said Commissioners are hereby empowered to grant, under such Rules, Orders, Regulations, and Restrictions as they shall think proper to insert therein); and if any Person shall, after the passing of this Act, cut, dig, pare, grave, flay or carry away any Flags, Whins, or Furze, in, upon, or from the said Commons and Waste Grounds, or any Part thereof, without or contrary to such Licence as aforesaid, the said Commissioners, upon due Proof thereof made before them upon Oath, shall and they are hereby required, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause any Sum or Sums of Money, not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of any Person offending in the Premises, rendering the Overplus (if any) upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Money so to be levied as last aforesaid shall be applied towards the Costs and Charges of obtaining and executing this Act.

XIV. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and empowered, with the Concurrence and Order of Two Justices of the Peace for the said County of *Norfolk*, acting in and for the Division in which the

the Road or Roads, Footpath or Footpaths, herein-after mentioned, shall be situate, and not interested in the Repair of such Road or Roads, Footpath, or Footpaths, to stop up and to direct to be discontinued, any publick Road or Roads, Footpath or Footpaths, through any Part or Parts of the Lands and Grounds in the said Parish of *Besthorpe*, which to the said Commissioners shall appear useless or unnecessary: Provided always, that such Order so to be made shall be subject to an Appeal to the Quarter Sessions, in the like Manner, and under the same Forms and Restrictions, as if the same had been originally made by such Justices as aforesaid: Provided also, that none of the present Roads or publick Highways within the said Parish of *Besthorpe*, shall be shut up or discontinued, until the Roads intended to be and remain publick Highways within the same Parish, shall be set out according to the Directions of the said recited Act, and until the same shall be properly formed, and made safe and convenient for Horses, Cattle, and Carriages.

None of the present Roads to be stopped up till new Roads be made.

XV. And be it further enacted, That the said Commissioners shall (after they shall have set out and appointed the publick Carriage Roads and Highways through, over, and upon the Commons and Waste Grounds within the said Parish of *Besthorpe*) assign, set out, and allot unto and for the Lord or Lords of the said Manor of *Pleshinghall* *Bridg-mans and Pages* in *Besthorpe*, or any of them, or any other Person or Persons, being Owner or Owners of or entitled to the Soil of the said Commons and Waste Grounds, so much and such Part or Parts of the said Commons and Waste Grounds hereby directed to be divided and allotted, as the said Commissioners shall adjudge and determine to be a fair Recompence and Compensation to him or them respectively, for his and their Right of and to the Soil of the said Commons and Waste Grounds or any Part or Parts thereof.

Allotment for Right of Soil.

XVI. And be it further enacted, That the said Commissioners shall, in the next Place, assign, set out, and allot, unto all and every the Owners and Proprietors of all such Messuages, Cottages, or Dwelling-houses, as shall be deemed to have a Right or Rights of Common upon and over the said Commons and Waste Grounds, by virtue of the Limitation aforesaid, (such Messuages, Cottages, or Dwelling-houses, being of an annual Value not exceeding Five Pounds,) such Part and Parts of the Lands and Grounds hereby directed to be divided and allotted, as the said Commissioners shall in their Judgement deem and consider to be equal in Value to the Average Value of One Acre, when inclosed, of the said Commons and Waste Grounds, over and above the Allotments herein-after directed to be made to the Owners of such Messuages, Cottages, or Dwelling-houses respectively.

Allotments in respect of Houses and Cottages under the Annual Value of 5l.

XVII. And be it further enacted, That the said Commissioners shall, in the next Place, assign, set out, and allot, unto the Lord of the said Manor, and to the Vicar, Churchwardens, and Overseers of the Poor of the said Parish of *Besthorpe*, so much and such Part or Parts of the said Commons and Waste Grounds hereby directed to be divided and allotted, as in the Judgement of the said Commissioners shall be fair and reasonable for the Purposes herein-after mentioned; and such Allotment or Allotments, when set out, shall be vested in the Lord of the said Manor, and the Vicar, Churchwardens, and Overseers of the Poor of the said Parish

Allotment for the Poor.

of

of *Besthorpe*, for the Time being, for ever in Trust for the Benefit of the Poor of the said Parish, in such Manner, and according to such Rules, Orders, Regulations, and Directions as the said Trustees shall from Time to Time order, direct, and appoint for that Purpose.

Lord of the Manor and Vicar to act by Proxy.

XVIII. Provided always, That it shall be lawful for the Lord of the aforesaid Manor, and the Vicar of the said Parish of *Besthorpe* for the Time being respectively, to act in the Execution of the Trusts hereby reposed in them, by their respective Agents or Proxies, respectively being appointed by Writing under the Hand of the Lord of the said Manor, and the Vicar of the said Parish of *Besthorpe* for the Time being respectively, and producing the Appointment at the Time of their acting by virtue thereof.

Poors Allotment to be free from Parochial Assessments.

XIX. Provided also, That from and immediately after the Execution of the said Award, no Poor or Parochial Rates, or Parochial Taxes, or Assessments whatsoever, shall be paid or payable out of or for or in respect of the said Allotment or Allotments, herein-before directed to be made for the Benefit of the Poor as aforesaid.

Allotment for Right of Sheepwalk.

XX. And be it further enacted, That the said Commissioners shall then set out and allot unto all and every Person and Persons having any Right or Rights of Sheepwalk in, over, or upon the said Commons and Waste Grounds, or any Part thereof, so much and such Parts and Parcels of the Lands and Grounds hereby directed to be divided and allotted within the said Parish of *Besthorpe*, as in the Judgement of the said Commissioners shall be a Compensation for and equal in Value to such his, her, or their several and respective Right or Rights of Sheepwalk in or over the said Commons and Waste Grounds, or any Part thereof.

Allotment for publick Sand and Gravel Pits, &c.

XXI. And be it further enacted, That the said Commissioners shall, in the next Place, assign, set out, and allot unto the Surveyors of the Highways within the said Parish of *Besthorpe*, such Parts of the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, not exceeding Two Acres, as the said Commissioners shall think necessary, as and for publick Watering Places for Cattle, and as and for Publick Sand, Gravel, Clay, and Chalk Pits; and the same Allotment or Allotments when set out shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands and Estates within the said Parish of *Besthorpe*, and their Tenants for the Time being, for ever in such Manner and under such Rules and Regulations as the said Commissioners shall by their Award appoint.

Allotment of the Residue.

XXII. And be it further enacted, That the said Commissioners shall then assign, set out, and allot the Residue and Remainder of the said Commons and Waste Grounds hereby directed to be divided, allotted, and inclosed, unto and amongst all and every Person and Persons, and Body and Bodies Politick, Corporate, or Collegiate, having any Right or Rights of Common, and other Rights or Interests in, to, over, or upon the same, or any Part or Parts thereof, (except the Owner or Owners of the Soil in respect thereof only) in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate

to the Value of, and a full Satisfaction and Compensation to him, her, or them respectively, for his, her, or their respective Rights and Interests therein.

XXIII. Provided always, That if any Person or Persons (save and except the said Vicar and his Successors in respect of the said Vicarage) hath or have sold, or contracted or agreed to sell, or shall at any Time before the Execution of the said Award sell, or contract or agree to sell, his, her, or their Right, Interest, and Property in, over, or upon the said Commons and Waste Grounds, to any other Person or Persons, then and in every such Case it shall and may be lawful for the said Commissioners, and they are hereby authorized and required, to make an Allotment of Land unto the Vendee or Purchaser in every such Sale, Contract, or Agreement, or to his or her Heirs or Assigns, for or in respect of such Right, Interest, and Property so sold, or contracted or agreed to be sold as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall and may, from and after the Execution of the said Award, hold and enjoy the Lands so to be allotted to him or her as aforesaid, in the same Manner to all Intents and Purposes as the Vendor in every such Sale, Contract, or Agreement, might, could, or ought to have held and enjoyed the same, in case such Sale, Contract, or Agreement had not been made, or such Right, Interest, or Property had not been vested in such Vendee at the Time of making such Allotment as aforesaid.

In case any Person (except the Vicar) shall sell his Common Right, the Allotment to be made to the Purchaser.

XXIV. Provided always, and be it further enacted, That the said Commons and Waste Grounds hereby intended to be divided and allotted, or any Part thereof, shall not be subject or liable to the Payment of Tythes of any Kind whatsoever, either Great or Small, or any Composition or other Satisfaction in lieu of Tythes, to the said Impropiator and Vicar, or their Successors for the Time being, for and during the Term of Three Years next after such Allotments shall have been made and assigned by the said Commissioners, for or in respect of any such Allotment or Allotments.

Lands allotted not to be subject to Tythes for Three Years.

XXV. And be it further enacted, That the Lands and Grounds hereby directed to be divided and allotted shall be inclosed, hedged, ditched, and fenced by such Persons and Body or Bodies Politic, Corporate, or Collegiate (save and except the Vicar of the said Vicarage for the Time being, in respect of any Allotment to be made to him in right of the said Vicarage; and save and except the Trustees for the Poor, and the Surveyors of the Highways, for or in respect of the Allotments hereby directed to be made to them respectively as aforesaid, within such Time and in such Manner as the said Commissioners shall in and by their said Award order, direct, and appoint; and the Hedges, Ditches, and Fences which shall be made pursuant to the said Award, shall, at all Times thereafter be maintained and kept in Repair and cleaned by such Persons and Body or Bodies Politick, Corporate, or Collegiate, as the said Commissioners shall award, order, and direct.

For fencing Allotments.

XXVI. Provided always, That convenient Gaps and Openings shall be left in the Fences and Inclosures to be made in pursuance of this Act, for the Space of Twelve Calendar Months next after the Execution of the said Award, for the Passage of Cattle, Carts, and

For leaving Gaps.

[Loc. & Per.]

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Carriage,

Carriages in and through the same; unless the several Parties interested shall agree that the same shall be sooner fenced in, made up, and inclosed.

For allowing
Exchanges to
be made.

XXVII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments whatsoever, within the said Parish of *Befthorpe*, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments whatsoever, within the said Parish, or within any adjoining Parish, Hamlet, Township, or Place; provided, that all such Exchanges be ascertained, specified, and declared in the said Award of the said Commissioners, and be made with the Consent of the Owner or Owners, Proprietor or Proprietors of the Lands, Tenements, or Hereditaments which shall be so exchanged whether such Owner or Owners, Proprietor or Proprietors, shall be a Body or Bodies Politick, Corporate, or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee-tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Females Covert, Lunatics, or under any other legal Disability, or who shall be beyond the Seas, or otherwise be disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal of the Body Politick, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange or Exchanges so 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 Lord Bishop of the Diocese and the Patron of the Living, in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie or be situate: Provided also, that all Costs, Charges, and Expences attending the making of any Exchanges and Partitions shall be paid and borne by the several Persons making such Exchanges or Partitions, in such Manner and in such Proportion as the said Commissioners shall by their said Award order and direct.

Tenants to
give up ex-
changed
Lands, hav-
ing Satisfac-
tion therefore.

XXVIII. And be it further enacted, That every Tenant and Occupier under any Lease or Agreement for any Term of Years, at Rack or extended Rent, now subsisting, of any old Inclosures which shall be exchanged by virtue of this Act, shall immediately after the signing of the Award of the said Commissioners, or within such further Time as the said Commissioners shall appoint, and whereof Notice in Writing shall be given for that Purpose, deliver up the full and peaceable Possession of such exchanged Lands to the Person or Persons to or with whom the same shall be respectively exchanged; but the Tenants or Occupiers of such exchanged Lands shall receive from the respective Owners and Proprietors thereof, such Satisfaction as the said Commissioners shall ascertain, order, direct, or appoint to be paid to such Tenants respectively, as an Equivalent for the Loss or Losses they shall respectively sustain thereby; and if the
Money

Money so to be ascertained as aforesaid, shall not be paid to the Person or Persons entitled to receive the same, within Ten Days after Demand made thereof, it shall and may be lawful to and 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 Expences of obtaining and executing this Act, can or may be raised and levied.

XXIX. And be it further enacted, That all and every Lease and Leases, at Rack or extended Rent now subsisting, of any Messuages, Lands, or Tenements within the said Parish of *Besthorpe*, shall, as far as such Lease or Leases affect or concern any Allotment or Allotments to be made of any Part of the said Commons or Waste Grounds, in respect of any such Messuages, Lands, or Tenements comprized in such Lease or Leases, be, and the same is and are hereby declared to be null and void as to such Allotment and Allotments; and such Allotment or Allotments shall be made and assigned unto the Landlord or Landlords, and not to the Tenant or Tenants, Lessee or Lessees; and such Allotment and Allotments shall be freed and discharged from all Right and Interest which may or otherwise might be claimed in or to the same, by virtue of such Lease or Leases; and the Person or Persons to whom the Messuages, Lands, or Tenements comprized in such Lease or Leases shall belong, as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same, under such Lease or Leases as the said Commissioners shall by Writing under their Hands direct for the Right of Common, or any other Rights or Interests in, over, or upon the said Commons or Waste Lands, or any Part thereof, appendant or appurtenant to such Messuages, Lands, or Tenements, and shall be extinguished by this Act, and if any Person or Persons shall refuse or neglect to make any such Compensation to the Person or Persons entitled thereto 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, to raise and levy the same, for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining and executing this Act, or any Part thereof, can or may be raised and levied.

Leases void
as to Allot-
ments of
Common.

XXX. And be it further enacted, That all the Lands and Grounds which shall be allotted by virtue of this Act, to any Person or Persons, for or in respect of any Messuages, Cottages, Lands, or Grounds, holden of any Manor or Manors by Copy of Court Roll, or for or in respect of any Leasehold Messuages, Lands, or Tenements, or for or in respect of any Right of Common, or any other Right or Interest appendant or appurtenant to any such Copyhold or Leasehold Premises, shall, from and after the Execution of the said Award, be deemed and taken to be Copyhold or Leasehold respectively, according to the Tenure of the Lands for or in respect of which they were allotted, and shall be held accordingly by and under the same Tenures, Rents, Payments, Fines, Customs, and Services, as the Copyhold or Leasehold Messuages, Cottages, Lands, or Tenements respectively, for or in respect whereof any such Allotment shall be made, are now holden; and that all and every Person or Persons to whom such Copyhold Lands and Premises shall be allotted as aforesaid, shall within Six Calendar Months next after the Execution of the said Award, be admitted Tenant or Tenants to the same, without paying

Allotments
shall be of the
same Tenure
as the Lands
for which they
are allotted.

paying any Fine or other Charge to the Lord or Lords, Lady or Ladies, or to the Seward or Stewards of the said Manor or Manors (save and except for the Stamp Duties and Parchment requisite to be used for the Copies of such Admissions respectively, and such reasonable Fees to the Steward or Stewards of the said Manor or Manors, as the said Commissioners shall by their said Award order and direct); but in case any Person or Persons to whom any such Lands and Premises shall be allotted shall die without Admission within the said Six Calendar Months, then the customary Fine or Fines and other Payments shall be due and payable on the Admittance of the Person or Persons entitled to such Lands and Premises; and after every such first Admittance the Copyhold Lands and Premises so to be allotted as aforesaid, shall at all Times thereafter be held under and subject to the same Tenure, Fines, and other Payments as the present Copyhold Messuages, Cottages, Lands, or Tenements in respect whereof such Lands and Premises shall be allotted, are now held under and subject to; and the said Commissioners shall by their said Award determine, describe and abut the Lands and Grounds respectively, which are to be and remain Copyhold or Leasehold; and all other Lands and Grounds to be allotted by virtue of this Act (save and except such as shall be so ascertained by the said Commissioners to be Copyhold or Leasehold) shall thenceforth be deemed, taken, and enjoyed as Freehold Lands and Grounds, subject nevertheless to such Free Rents and Services as are now payable out of the respective Lands, Tenements, or Hereditaments, for or in respect whereof the same shall or may be allotted.

For Sale of
Part of Lord
Winterton's
Allotments to
pay Expences.

XXXI. And be it further enacted, That it shall and may be lawful to and for the said Commissioners to sell and dispose, either by publick Auction or private Contract, in the Manner directed by the said recited Act, of a sufficient Part of the Allotment or Allotments of the said *Edward Earl of Winterton*, to raise a competent and sufficient Sum of Money to pay his Share and Proportion of the Charges and Expences of obtaining and passing this Act; and of surveying, admeasuring, planning, dividing, valuing, and allotting the said Lands and Grounds; and of forming, making, and putting into good Repair the publick Roads and Highways in the Manner directed by the said recited Act; and of preparing the Award of the said Commissioners; and all other Charges and Expences of carrying this Act into complete Execution; and to pay the Money arising therefrom to the said Commissioners for the Purposes aforesaid; and in case there shall be more Money raised by such Sale than will be sufficient for such Purposes, then and in such Case the Surplus shall be paid into the Bank of *England*, in Manner directed by the said recited Act, with respect to the Money thereby directed to be paid for the Purchase or Exchange of 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.

Wills and
Settlements
not to be af-
fected.

XXXII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter, or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, or Incumbrance, in, out of, upon, or affecting any of the Messuages, Buildings, Lands, and Grounds to be divided, allotted, or exchanged by

by virtue of this Act, or any Part thereof, but that every Proprietor shall stand and be seised and possessed of the several Messuages, Buildings, Lands, and Grounds, to be allotted to or exchanged with him or her as aforesaid, to such and the same Uses, and for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, and Charges, and no other, as the Messuages, Buildings, Lands, and Grounds, whereof such Proprietor was seised or possessed, at or immediately before the Execution of the Award to be made by the said Commissioners, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with, or affected by, in case this Act had not been made.

XXXIII. And be it further enacted, That all the Costs, Charges, and Expences of inclosing and fencing the Lands which shall by virtue of this Act be allotted to the Vicar in respect of the said Vicarage, and of inclosing the respective Allotments hereby directed to be made to the Trustees for the Poor of the said Parish of *Besthorpe* and the Surveyors of the Highways, as such Trustees and Surveyors, and all the Costs, Charges, and Expences incident to and attending the obtaining and passing of this Act, and of surveying, admeasuring, planning, valuing, embanking, dividing, and allotting the Lands and Grounds hereby directed to be divided and allotted, and also of opening and cutting any Drain or Drains necessary for the preserving and improving the said Commons and Waste Grounds, and of preparing and inrolling the Award of the said Commissioners, and the Copies thereof, and all the Charges and Expences of the said Commissioners, their Assistants and Servants, and all other necessary Expences of the several Persons to be employed by the said Commissioners in and about the Premises, either before or after the Execution of the said Award; and all the Expences of forming, completing, and repairing the publick Carriage Roads and Highways to be set out and appointed by the said Commissioners, within the said Parish of *Besthorpe*, and all other Expences of carrying the said recited Act and this Act into Execution (other than and except all such Charges and Expences as may be incurred in or by reason of the Sale of such Part of the Commons and Waste Lands to be set out and allotted to the said *Edward* Earl of *Winterton* which shall be sold and conveyed under and by virtue of the Powers herein-before contained, which said last mentioned Charges and Expences are to be separately paid and defrayed by and out of the Monies arising from such Sale as herein-before is provided) shall be borne, defrayed, and paid by the several Persons and Body or Bodies Politick, Corporate, or Collegiate, to whom Allotments shall be made by virtue of this Act (save and except the Vicar of the said Vicarage for the Time being, for or in respect of any Allotment or Allotments which shall be made to him in right of the said Vicarage; and also save and except the Trustees for the Poor of the said Parish of *Besthorpe*, and the Surveyors of the Highways, for or in respect of any Allotments which shall be made to them respectively as such Trustees and Surveyors as aforesaid; and also save and except such Persons whose respective Property in Lands and Buildings shall not in the Judgement of the said Commissioners exceed the Yearly Value of Five Pounds at the Time of making the said Allotments) in such Shares and Proportions, at such Time or Times, either before or after the Execution of the said Award, and to such Person or Persons as the said Commissioners shall direct or appoint; and in case any Person or Persons shall

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refuse

Directions for
defraying the
Expences of
this Act.

refuse or neglect to pay his, her, or their Proportion of such Costs, Charges, and Expences according to such Direction or Appointment as aforesaid, then and in such Case the same shall and may be recovered in the Manner directed in and by the said recited Act.

Directions for charging Copyhold Lands with Expences.

XXXIV. Provided always, and be it further enacted, That when and so often as it may be necessary to charge any Lands or Tenements, which shall be allotted or exchanged by virtue of this Act, and which are or shall be or become Copyhold, with any Sum or Sums of Money by way of Mortgage, for defraying any Share or Shares of the Costs, Charges and Expences of obtaining and executing this Act; then and in such Case such Copyhold Premises shall be surrendered to the Use of the Person or Persons who shall advance and lend such Sum or Sums of Money, and his her, or their Heirs and Assigns, according to the Custom or Customs of the Manor or Manors whereof the same shall be holden, by way of Mortgage, for securing such Sum or Sums of Money and Interest for the same, instead of being mortgaged and surrendered to such Person or Persons, his, her, or their Executors, Administrators, and Assigns, for a Term of Years as mentioned in the said recited Act.

Commissioners to lay their Accounts before a Justice Once in every Year.

XXXV. 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 just and true Statement or Account of all Sums of Money by them received and expended, and 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 some One or more of His Majesty's Justices of the Peace for the said County of *Norfolk*, to be by him or them examined and balanced; and such Balance shall be, by such Justice or Justices, 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 Statement or Account shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice or Justices.

Proprietors and Agents to pay their own Expences.

XXXVI. Provided always, That the said several Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners, at any of their Meetings to be holden in pursuance of this and the said recited Act.

For allowing Interest on Money advanced.

XXXVII. Provided always, and be it further enacted, That if any of the Persons interested in the Lands and Grounds hereby directed to be divided and allotted, or any other Person or Persons, shall advance and pay any Money in discharge of the Fees or other Expences of obtaining and passing this Act, and of carrying the same and the said recited Act into Execution; every such Person shall be repaid such Money, together with lawful Interest from the Time of advancing the same, out of the first Money that shall be raised for the defraying of such Expences, under and by virtue of this Act.

For inrolling and depositing the Award.

XXXVIII. And be it further enacted, That within the Time which is by the said recited Act limited for the Inrolment of the Award, thereby directed

directed to be made by the said Commissioners, a true Copy of the said Award written upon Parchment, and signed and attested by the said Commissioners to be a true Copy thereof, together with a proper Map or Plan thereto annexed, shall be delivered to the Clerk of the Peace for the said County of *Norfolk*, who is hereby required to deposit and keep the same among the Records of the said County so that Recourse may be had thereto by any Person or Persons interested in the Premises; for the Reception whereof the Fee of Two Guineas shall be paid; and for the Inspection and Perusal whereof the Sum of One Shilling and no more shall be paid; and the said Award shall, from and after the Delivery of such Copy thereof, so signed and attested as aforesaid, to the said Clerk of the Peace, be deemed and taken to be inrolled according to the Directions and within the Meaning of the said recited Act; and the said Award, and the said Copy thereof, or any other Copy thereof, or of any Part thereof, attested by the said Commissioners, or by the said Clerk of the Peace or his Deputy (for which Copy no more shall be paid than Four-pence per Sheet each Sheet containing Seventy-two Words) shall from Time to Time and at all Times be admitted and allowed as legal Evidence of the Matters and Things therein contained, in all Courts whatsoever; and the original Award shall be deposited and kept in the Parish Church of *Besthorpe*, or in such other Place as the said Commissioners shall appoint.

XXXIX. And be it further enacted, That if any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of the said recited Act or this Act (other than except such Orders and Determinations of the said Commissioners as are by the said recited Act or this Act declared to be final and conclusive, and except in such Cases wherein an Issue at Law shall be tried as herein-before mentioned) then and in every such Case he, she, or they may appeal to the Justices at the General Quarter Sessions of the Peace which shall be holden for the said County of *Norfolk*, 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 (in case the Appeal shall be made against any Act or Determination of the said Commissioners) Fourteen Days Notice in Writing of such Appeal and of the Matter thereof; and the Justices not interested in the Premises, at their said General Quarter Sessions, or at any future Sessions to which such Appeal may be adjourned, are hereby 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 such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari* or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case any such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Appeal to
Sessions.

Saving the
Rights of the
Lord of the
Manor.

XL. Provided always, and be it further enacted, That nothing herein contained shall prejudice, lessen, or defeat the Right, Title, or Interest of the Lords or Ladies of the Manor herein mentioned, or any of them, of, in, or to the Seignories or Royalties incident and belonging to the said Manor; but that such Lords or Ladies of the said Manor for the Time being respectively, shall and may at all Times hereafter hold and enjoy the same, and all Rents, Courts, Perquisites and Profits of Courts, Services, Franchises, Privileges, Waifs, Estrays, Deodands, Forfeitures, and all other Royalties, Rights, and Appurtenances to such Manor incident or belonging (other than those which are intended to be compensated for, barred, or destroyed by this Act), in as full, ample, extensive, and beneficial a Manner as they respectively could or might have held and enjoyed the same in case this Act had not been passed.

General Sav-
ing.

XLI. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Body and Bodies Politick, Corporate, or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, (except the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made by virtue and in pursuance of the said recited Act and this Act, for and in respect of such Rights and Interests as are hereby meant and intended to be barred, destroyed, and extinguished, and all Persons respectively claiming under them or in Remainder after them) all such Estate, Right, Title and Interest as they, every, or any of them, could or ought to have had and enjoyed, of, in, to, or in respect of the Lands hereby directed to be divided and allotted, in case this Act had not been passed.

Declaring the
Act Publick.

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

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1806.