



ANNO QUADRAGESIMO PRIMO

GEORGI III. REGIS.

Cap. 146.

An Act to alter and amend so much of an Act, passed in the Fortieth Year of the Reign of His present Majesty, intituled, *An Act for dividing, allotting, and inclosing, the Open and Common Fields, Meadows, and Pastures, and other Commonable Lands and Grounds, and also the Waste Lands and Grounds, within the several Parishes of Hanworth, Feltham, and Sunbury, in the County of Middlesex, as authorizes and requires the Commissioners to make a certain Allotment, therein mentioned, to Edmund Hill as Lord of the said Manor.* [2d July 1801.]

WHEREAS by an Act passed in the Fortieth Year of the Reign of His present Majesty King George the Third, intituled, *An Act for dividing, allotting, and inclosing the Open and Common Fields, Meadows, and Pastures, and other Commonable Lands and Grounds, and also the Waste Lands and Grounds, within the several Parishes of Hanworth, Feltham, and Sunbury, in the County of Middlesex, the Commissioners therein named are authorized and required (after making certain Allotments therein directed) to set out and allot unto Edmund Hill Esquire, Lord of the Manor of Colkenington otherwise Kempton, his Heirs or Assigns,* [Loc. & Per.]

Preamble.
40 Geo. III,
recited.

such Plot or Plots of the Residue of the Waste Lands and Grounds in *Colkenington* otherwise *Kempton*, thereby directed to be divided, allotted, and inclosed, as should be equal in Value to One Sixteenth Part of such Waste Lands and Grounds, for the Right and Interest of the said Lord of the said Manor in or to the said Residue of the said Waste Lands and Grounds, or to the Soil thereof (exclusive of any separate or distinct Right which the said Lord might have in or to the Soil of the said Waste Lands and Grounds) within of or belonging to the said Manor, and within the respective Parishes of *Feltham* and *Sunbury*: And whereas it appears from the Court Rolls of the said Manor of *Colkenington* otherwise *Kempton*, that in the Year One thousand seven hundred and forty-nine, a Court of Survey of the said Manor was held, and the Jury thereupon found as follows: *videlicet*, 'That by some Agreement between Sir *Robert Killigrew* Knight, a former Lord of this Manor, and the Tenants of the same, the said Sir *Robert* did inclose a Parcel of *Kempton* Common from the Corner of a Hedge called *Broomfield Corner* or *Pill Corner*, on the North, towards a Gate called *Kempton Gate* towards the South; and that the said Tenants did release their Right thereto, and that in Consideration thereof, the said Tenants were to be at Liberty to inclose the Rest of the said Common to their own Use at and under the like Rents, Customs, and Services as they enjoy their inclosed Lands within the said Manor; and the said Sir *Robert Killigrew* did release his Right of Commonage or depasturing Four hundred Sheep in the said Common, and paid Thirty Pounds to the Use of the Poor of *Kempton*; and that ever since the Lords of the said Manor have successively enjoyed the said inclosed Ground, and the Tenants enjoyed the Rest of the said Common, without the Lords having Common therein: ' And whereas the several Owners and Proprietors of or Persons interested in the said Waste Lands and Grounds within the said Manor of *Colkenington* otherwise *Kempton*, were not apprized of the said Agreement during the Progress of the said Act through both Houses of Parliament, nor till after the same had passed into a Law, and therefore did not oppose the said Provision therein contained, whereby the Commissioners are authorized and required to make the aforesaid Allotment to the said *Edmund Hill*, as Lord of the said Manor; but on being made acquainted with the said Agreement, and being advised that the said Sir *Robert Killigrew* had thereby surrendered and yielded up, not only all Right of Common on the Waste Lands and Grounds within the said Manor, but also all Claim to the Soil thereof as Lord of the said Manor, to and in favour of the then Tenants thereof, and that by reason thereof the Owners and Proprietors or Persons interested as aforesaid, were entitled to the Whole of the said Waste Lands or Grounds within the said Manor, in Exclusion of any Claim or Right of the said *Edmund Hill*, as Lord of the said Manor therein, several of the said Owners and Proprietors or Persons interested as aforesaid, applied to the said Commissioners, whilst they were proceeding in the Execution of the said Act, and requested them not to make an Allotment to the said *Edmund Hill* as Lord of the said Manor, of the One Sixteenth Part of the Waste Lands and Grounds within the same: And whereas the said Commissioners, after due Investigation of the Rights and Interests of the said Parties, did determine that the said *Edmund Hill* had no Right of Common for depasturing Four hundred Sheep; but the Act declaring him Lord of the Manor of *Kempton*, and directing an Allotment of One Sixteenth Part to be made to him as such Lord, they conceived that they had no Jurisdiction over that Part of his Claim: And
 whereas,

whereas, in regard that the said Agreement, under which such Owners and Proprietors or Persons interested as aforesaid claim to be entitled to the Whole of the said Waste Lands and Grounds, in Exclusion of the said *Edmund Hill* as Lord of the said Manor, was not brought forward or made known to Parliament before the said Act passed into a Law, it is highly just and expedient, that the respective Rights and Claims of the said Owners and Proprietors or Persons interested as aforesaid, and of the Lord of the said Manor, in relation to the said Waste Lands and Grounds, should be ascertained, settled, and determined; and several of such Owners and Proprietors or Persons interested as aforesaid, are desirous of trying and determining such Rights and Claims in an Action at Law: and have requested the said *Edmund Hill* to consent thereto, but which he hath refused to do: And inasmuch as the said Owners and Proprietors or Persons interested as aforesaid, are advised that the said recited Provision in the said Act of Parliament contained, would be a Bar to and defeat any Action at Law which might be brought by them against the said *Edmund Hill*, to try and determine such their Rights and Claims as aforesaid, and they are therefore precluded from trying the same; for Remedy whereof may it 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 notwithstanding the said recited Provision, or any other Provision, Clause, Article, Matter, or Thing, in the said Act of Parliament contained to the contrary, it shall and may be lawful to and for any Owner or Proprietor of or Person interested in the Waste Lands and Grounds within the said Manor of *Colkenington* otherwise *Kempton*, within Six Calendar Months after the passing of this Act, to commence and prosecute an Action at Law in One of His Majesty's Courts of Record at *Westminster*, against the said *Edmund Hill*, his Heirs or Assigns, for the Purpose of trying the respective Rights and Claims of the said *Edmund Hill* as Lord of the said Manor, and such Owners and Proprietors or Persons interested as aforesaid, in and to the said Waste Lands and Grounds, and to declare therein as upon a feigned Wager, and such Declaration shall be settled by the proper Officer of the Court in which such Action shall be brought, in case the Parties shall differ about the same; and the said *Edmund Hill*, his Heirs or Assigns, is and are hereby required to appear to such Action, and accept a Declaration and plead to Issue; and the Plaintiff therein shall proceed to the Trial of such Action at the Sittings after next *Hilary* Term, unless the Court shall give further Time for such Trial; and the Costs of such Issue shall abide the Event of the Trial thereof: And in case at such Trial a Verdict shall be found for the said *Edmund Hill*, his Heirs or Assigns, then and in such Case the Commissioners for the Time being acting under the said recited Act, may and they are hereby required to set out and allot the aforesaid disputed One Sixteenth Part or Share of the aforesaid Residue of the said Waste Lands and Grounds, unto the said *Edmund Hill*, his Heirs or Assigns, pursuant and in Conformity to the Directions of the said Act; but if a Verdict shall be found for the Plaintiff in such Action, then and in such Case the said Commissioners may and they are hereby required to set out and allot the same unto and amongst the several Persons interested in the said Waste Lands and Grounds (other than and except the Lord of the said Manor of *Colkenington* otherwise *Kempton*) in Proportion to their respective Rights, Shares, Interests, and Property therein:

Provided

Empowering any Person interested in the Wastes within the Manor of *Kempton*, to bring an Action against the Lord for determining present Rights to the Wastes.

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Provided always, That it shall and may be lawful for the Court in which such Action shall be brought to grant a new Trial or Trials between such Parties as such Court shall think proper.

In the Case here in mentioned One Sixteenth Part of the Manors of Colkenington to be alloted to Edmund Hill, etc.

III. Provided always, That in case on such Trial it shall be found that the Right and Interest of the said Lord of the Manor of Colkenington otherwise Kempton, in the Soil of some Part only of the said Waste Lands and Grounds within the said Manor, had been by the said Agreement relinquished or surrendered up, and that the said Lord of the said Manor still continued to be entitled to the Soil of the Residue of the said Waste Lands and Grounds within the said Manor, then and in such Case, it shall and may be lawful for the said Commissioners, appointed in and by the said recited Act for dividing, allotting, and including the Open and Common Fields, and the Waste Lands and Grounds within the said several Parishes of *Hanworth, Kelham, and Sunbury* aforesaid, to set out and allot unto the said *Edmund Hill*, his Heirs or Assigns, such Plot or Plots of the said Residue of the said Waste Lands and Grounds within the said Manor of Colkenington otherwise Kempton, to the Soil of which the said *Edmund Hill* shall be found to be entitled, as shall be equal in Value to One Sixteenth Part thereof, for and in lieu of the Right and Interest of the said Lord of the said Manor of Colkenington otherwise Kempton in or to the said Residue; and to set out and allot the Whole of the said Waste Lands and Grounds, the Soil whereof shall appear to have been surrendered or yielded up by the said Lord of the said Manor of Colkenington otherwise Kempton, unto and amongst the several Persons interested in the said Waste Lands and Grounds (other than and except the Lord of the said Manor of Colkenington otherwise Kempton) in Proportion to their respective Rights, Shares, Interests, and Property therein.

Saving the Right of the Lord of the Manor.

III. Provided always, That nothing in this Act contained, nor the Verdict to be found on such Trial, shall diminish, prejudice, defeat, or affect any Claims or Interests which the said *Edmund Hill*, his Heirs or Assigns, may have or be entitled to, in or upon the said Waste Lands and Grounds, in any other Right than as Lord of the said Manor of Colkenington otherwise Kempton, and other than in respect of the said Right of Commonage so released by the said *Sir Robert Killigrew* as aforesaid.

IV. And be it further enacted, That this Act shall be deemed, adjudged, and taken to be a Publick Act, and shall be judicially taken Notice of as such by all Judges, Justices, and other Persons whomsoever, without specially pleading the same.

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