



ANNO QUADRAGESIMO NONO

GEORGI III. REGIS.

Cap. 64.

An Act for inclosing Lands in the Parish of *Great Witchingham*, in the County of *Norfolk*.

[12th May 1809.]

WHEREAS there are within the Parish of *Great Witchingham*, in the County of *Norfolk*, certain Heaths, Commons, and Waste Grounds: And whereas the Honourable *John Wodehouse* is Lord of the Manor of *Middleton* and *Giles Athall*; and the Warden and Scholars of *Saint Mary's College* of *Winchester*, in *Oxford*, commonly called *New College* in *Oxford*, are Lords of the Manor of *Witchingham Longvill Weston Longvill*, with the Members; and the Lords of the said several Manors, or some or one of them, are or is or claim to be entitled to the Soil of the said Heaths, Commons, and Waste Grounds, or some Part thereof: And whereas the said Warden and Scholars are entitled to the Impropriate Rectory of *Great Witchingham*; and *Peter Le Neve Foster* is Lessee of the Tythes and the Rights thereto belonging; and the said Warden and Scholars are Patrons of the Vicarage of *Great Witchingham*, of which *Thomas Jeans* Clerk, is the present Vicar: And whereas the said *John Wodehouse*, the said Warden and Scholars, the said *Peter Le Neve Foster*, and *Robert Beeston*, *Edward Moore*, and divers other Persons, are Owners and Proprietors of all the Messuages, Cottages, Lands, and Tenements, situate, lying, and being in *Great Witchingham* aforesaid: And whereas an Act was passed in the Forty-first Year of the Reign of His present

Lords, etc. of
Manors.

Proprietors.

[Loc. & Per.]

Advantage to
inclose.

Commission-
ers appointed.

sent 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 the said Heaths, Commons, and Waste Grounds, in their present State and Condition, yield but little Profit to the several Persons interested therein, to whom it would be greatly advantageous if the several Rights of Sheepwalk and Common, to which the same are at present subject, were extinguished; and if the said Heaths, Commons, and Waste Grounds were divided and inclosed, and specific Parts or Shares thereof assigned and allotted unto and amongst the several Persons entitled thereto and interested therein, according to their respective Rights and Interests: But as such Extinguishment, Division, Allotment, and Inclosure cannot be accomplished and effectually established without the Aid and Authority of Parliament; may it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Heaths, Commons, and Waste Grounds shall be set out, divided, allotted, and inclosed in Manner herein-after mentioned, and that *Thomas Glover Ewen*, of the City of *Norwich*, Gentleman, *John Dugmore* of *Swaffham*, in the County of *Norfolk*, Gentleman, and *Robert Copeman* of *Aylsham*, in the said County of *Norfolk*, Gentleman, and their Successors, to be elected in Manner herein-after mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Heaths, Commons, and Waste Grounds, and for putting this Act in Execution, in the Manner and subject to the Rules, Orders, and Directions herein contained, and also subject to the Powers and Provisions contained in the said recited Act, except where the same are hereby varied and altered; and that all Acts, Matters, and Things authorized and necessary to be done and executed by the said Commissioners in pursuance of this or the said recited Act, may be done and executed by any Two of them, and the same shall be as valid and effectual, and shall have the like Force and Effect as if all such Acts, Matters, and Things had been done and executed by all the Commissioners herein named, or to be appointed in Manner herein mentioned.

For appoint-
ing new Com-
missioners.

II. And be it further enacted, That if any of the Commissioners herein named, or to be 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, if such Commissioner so dying, or refusing, or becoming incapable to act, shall be the said *Thomas Glover Ewen*, or any Commissioner to be appointed in his stead as herein-after mentioned, it shall be lawful for the Lord or Lady of the said Manor of *Middleton* and *Giles Atball* for the Time being, by Writing under his or her Hand and Seal, to nominate and appoint another Person to be a Commissioner in the Place and Stead of the said *Thomas Glover Ewen*; and in case such Commissioner so dying, or refusing, or becoming incapable to act, shall be the said *John Dugmore*, or any Commissioner to be appointed in his stead as herein-after mentioned, it shall be lawful for the Lords of the said Manor of *Witchingham Longvill Weston Longvill*, with the Members for the Time being, by Writing under their Hands and Seals, to nominate and appoint

appoint another Person to be a Commissioner in the Place and Stead of the said *John Dugmore*; and in case such Commissioner so dying, or refusing, or becoming incapable to act, shall be the said *Robert Copeman*, or any Commissioner to be appointed in his stead as herein-after mentioned, it shall and may be lawful for the major Part in Value of the Proprietors of Estates in the said Parish of *Great Witchingham*, other than and except the Lord or Lady of the Manor of *Middleton* and *Giles Athall* aforesaid, for the Time being; and the Lords of the Manor of *Witchingham Longvill Weston Longvill*, for the Time being, who shall assemble at a Meeting to be called for that Purpose by the surviving or other Commissioner or Commissioners, within Twenty-one Days after the Death, Refusal, or Incapacity of the said *Robert Copeman*, or of any Commissioner to be appointed in his stead, shall be known to them, and of which Meeting at least Eight Days previous Notice shall be given, by advertising the same in the *Norwich Mercury* or *Norfolk Chronicle*, or in some other publick Newspaper printed or circulated in the said County of *Norfolk*, and by affixing the same Notice on the principal Door of the Church of *Great Witchingham* aforesaid, to elect, nominate, and appoint, by Writing under their Hands, another Person to be a Commissioner in the Place or Stead of the said *Robert Copeman*; and in case the Lord or Lady of the said Manor of *Middleton* and *Giles Athall*, or the Lords of the said Manor of *Witchingham Longvill Weston Longvill*, with the Members, or the said other Proprietors, as the Case may be, shall neglect or refuse to nominate and appoint another Commissioner in the Place and Stead of the Commissioner so dying, refusing, or becoming incapable to act, in Manner as herein-before directed and authorized, within the said Twenty-one Days next after the Death of such Commissioner, or his Refusal or becoming incapable to act being known to them, then and in every such Case it shall be lawful for the surviving or remaining Commissioner or Commissioners, and they or he are and is hereby required, at any Time after the Expiration of the said Twenty-one Days, by Writing under their or his Hands and Seals or Hand and Seal, to appoint another Person to be a Commissioner in the Place of every Commissioner so dying, or refusing, or becoming incapable of acting, and so *toties quoties* as often as Occasion shall require; provided that no Person interessed in the said intended Division and Inclosure shall be capable of being appointed a Commissioner; and every Commissioner so to be appointed shall, after taking the Oath to be prescribed in that Behalf, have the like Powers and Authorities for carrying this and the said recited Act into Execution, in all Respects as if he had been originally named and appointed a Commissioner in and by this Act.

III. And be it further enacted, That the said Commissioners shall, and they are hereby required to give or cause to be given publick Notice by Advertisement to be inserted in the *Norwich Mercury* or *Norfolk Chronicle*, or some other publick Newspaper to be circulated in the said County of *Norfolk*, of the Time and Place of their First and every other Meeting for executing the Powers hereby vested in them, Ten Days at the least before every such Meeting (Meetings by Adjournment only excepted); and that it shall be lawful for the said Commissioners, at any of their Meetings to be holden in pursuance of this Act, from Time to Time as they shall find it convenient, to continue such Meeting by Adjournment; provided that if at any Meeting appointed to be holden as aforesaid, it shall happen that

Notice of
Commission-
ers Meetings.

One Commis-
sioner may
adjourn.

only

only One of the said Commissioners shall attend, such Commissioner may adjourn such Meeting to any future Day he shall see most convenient, giving due Notice thereof to the other Commissioners, and so on from Time to Time as often as there shall be Occasion.

Meeting to be held at Great Witchingham or within Eight Miles, and Proprietors to pay their own Expences.

IV. And be it further enacted, That all Meetings of the said Commissioners for putting this and the said recited Act in Execution, shall be held at *Great Witchingham* aforesaid, or within Eight Miles thereof, and that all Persons interested or claiming to be interested in the said Heaths, Commons, and Waste Grounds, shall pay their own Expences, and the Charges and Expences of their Agents and Attornies, when they shall attend the said Commissioners at any of their said Meetings.

Other Notices how to be given.

V. And be it further enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners, and not herein or by the said recited Act otherwise directed, shall be so made and given by Advertisement in the *Norwich Mercury* or *Norfolk Chronicle*, or in some other publick Newspaper to be circulated in the said County of *Norfolk*.

Plan or Survey already made, may be used for the Purposes of this Act.

VI. And be it further enacted, That if any Plan or Survey which has been already made of all or any of the Lands or Grounds within the said Parish of *Great Witchingham* shall, upon Inspection and Enquiry, be deemed by the said Commissioners to be correct, and sufficient for the Purposes hereby or by the said recited Act intended, it shall be lawful for the said Commissioners to contract for and purchase the same, and to cause the same to be made use of by the Surveyor or Surveyors to be by them appointed by virtue of the said recited Act; and such Plan or Survey shall, if the said Commissioners shall think proper, be verified on the Oath of the Person or Persons who prepared and made the same.

Forshortening Boundary Fences.

VII. And be it further enacted, That in order to shorten the Boundary Fences between the Lands and Grounds hereby intended to be divided, allotted, and inclosed, and the Lands lying within any Parish or Parishes adjoining thereto, it shall be lawful 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 *Great Witchingham*; and also under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors in any such adjoining Parish or Parishes, or of the Owner or Owners of the Land upon which such Fences shall or may be intended to be made) to set out, ascertain, and determine the Boundary Fences to be made between the Lands and Grounds hereby intended to be divided, allotted, and inclosed; 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 Boundaries between the Lands and Grounds hereby directed to be divided, allotted, and inclosed, and such adjoining Parish or Parishes, any Law, Usage, or Custom to the contrary notwithstanding.

VIII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the Heaths, Commons, and Waste Grounds to be divided, allotted, and inclosed by virtue of this Act, shall be and be deemed to be Part of the said Heaths, 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.

Encroachments made within Twenty Years, to be deemed Part of the Lands to be inclosed.

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 any Rights, Interests, Shares, and Proportions which they or any of them shall have or claim to have of and in the Lands and Grounds 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 always, that nothing in this Act contained shall extend or be construed to extend so as to authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

Commissioners to settle Differences,

but not to determine Titles.

X. 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 the said recited Act or of this Act, or upon the Hearing or Determination of any Dispute or Difference as aforesaid, see Cause to award any Costs, it shall be lawful for the said Commissioners and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled, or against whom the said Commissioners shall have determined as aforesaid; and in case the Person or Persons, Body or Bodies Politic, 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 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 Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) on Demand to the Person or Persons, or Body or Bodies Politic, 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.

Commissioners to assess Costs.

XI. Provided always, and be it further enacted, That in case any Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, interested

Power to try Rights by an Issue at Law.

[Loc. & Per.]

14 A

interested

interested or claiming to be interested in the said intended Division, Allotment, and Inclosure, shall be dissatisfied with any Determination of the said Commissioners, touching or concerning any Claim or Claims of any Right of Sheepwalk or Common, or other Rights or Interests in, to, over, or upon the said Heaths, Commons, and Waste Grounds hereby directed to be divided, allotted and inclosed, or any Part thereof, or touching or concerning any other Matter or Thing relating to the said Division, Allotment or Inclosure, then and in every such Case it shall be lawful for such Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, so dissatisfied, to try all such Claims, Matters, and Things at Law, at the next Assizes to be holden for the said County of *Norfolk*, upon a feigned Issue, provided such Determination be made within the Time herein-after mentioned before such Assizes; but if such Determination be made only within Three Calendar Months next before such Assizes, then at the next following Assizes for the said County, and for that Purpose the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, who shall be dissatisfied with the Determination of the said Commissioners, shall cause an Action to be brought against the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, in whose Favour such Determination shall have been made, within Thirty Days after such Determination of the said Commissioners; and the Defendant or Defendants in such Action is and are hereby required forthwith to appear to such Action, accept a Declaration and plead to Issue, (such Issue to be settled by the proper Officer of the Court in which the said Action 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, Body and Bodies Politic, Corporate and 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, as is usual in other Cases; and that 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.

Actions not to abate by death of Parties.

XII. 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.

In case Actions are not brought Determinations to be final.

XIII. Provided always, and be it further enacted, That such Orders and Determinations of the said Commissioners as shall have been made as aforesaid, with respect to such Claims touching which no such Action at Law shall be brought or commenced and proceeded in within the Time aforesaid, shall be final, binding and conclusive upon all Persons whomsoever; any Thing in this or the said recited Act contained to the contrary notwithstanding.

Provision in case of Death of Parties before Action brought.

XIV. Provided also, and be it further enacted, That if any Person or Persons in whose Favour any such Determination as aforesaid shall have been
been

been made, and against whom any such Action or Actions might have been brought if living, shall die 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, or Body or Bodies Politic, Corporate or Collegiate, 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 if 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 upon the Heir or Heirs, or other Person or Persons who shall claim the Benefit of such Determination as aforesaid, to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living; and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

XV. And be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any such Parties, except in Cases of Encroachments made within the Period of Twenty 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 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.

XVI. 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 Politic, Corporate or Collegiate, in or to any Messuages, Lands, or Tenements in the said Parish of *Great Witchingham*, such Suit or Suits shall not impede, delay, or hinder the said Commissioners from proceeding to the Execution of the Powers vested in them by this Act, but the said Division and Allotments shall be proceeded in notwithstanding such Suit or Suits; and the Allotment or Allotments to which any such Suit shall relate may be had and taken by the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, who upon the Determination of such Suit or Suits shall become entitled to the same.

Disputes about Titles not to impede the Proceedings or the Execution of this Act.

XVII. And be it further enacted, That if any Person or Persons shall after the passing of this Act, cut, dig, pare, grave, flay, or carry away any Reed, Rushes, Turf, Flags, Whins, or Furze, in, upon, or from the said Heaths, Commons, and Waste Grounds, or any Part thereof, without or contrary to the Licence of the said Commissioners first had and obtained in Writing 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), then and in every such Case the said Commissioners, upon due Proof thereof

No Turf or Flags to be cut after passing this Act, without leave of the Commissioners.

made.

made before them on Oath, shall cause and they are hereby required to cause, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, any Sum of Money not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of every Person so offending in the Premises, 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; and the Money so to be levied as aforesaid, shall be applied towards defraying the Costs and Charges of obtaining and executing this Act.

For extinguishing or suspending Rights of Common before the Award.

XVIII. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized, at any Time before the Execution of the Award to be made by the said Commissioners, by Writing under their Hands, to be affixed upon the principal Door of the Church of *Great Witchingham* aforesaid, to order and direct all or any Part of the Right of Sheepwalk, Rights of Common, or other Commonable Rights whatsoever, in, over, or upon the Heaths, Commons, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time or Times as shall be expressed in such Writing; and that all such Rights as the said Commissioners shall by such Writing order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Writing on the said Church Door cease, determine, and be extinguished, or the Exercise thereof shall be suspended accordingly; any Law, Usage, or Custom to the contrary notwithstanding.

Commissioners may stop old Roads.

XIX. And be it further enacted, That it shall be lawful 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 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 public Road or Roads, Footpath or Footpaths through any Part or Parts of the Lands and Grounds in the said Parish of *Great Witchingham*, 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 public Highways within the said Parish of *Great Witchingham* shall be shut up or discontinued, until the several Roads intended to be and remain public 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,

To prevent Cattle grazing on public Roads.

XX. And be it further enacted, That no Person or Persons shall graze or keep any Sort of Cattle whatsoever in or upon any of the public Roads or Ways which the said Commissioners shall order and direct to be set out and fenced

fenced on both Sides, for the Space of Ten Years next after the Execution of their Award, under a Penalty not exceeding Twenty Shillings for every Horse, Ass, Bullock, Cow, Sheep, Lamb, or other Beast, which shall be found therein, to be paid to the Person or Persons who shall take and impound the same; and every Proprietor or Occupier of Lands and Tenements within the said Parish, and his or her Servants and Labourers, is and are hereby empowered to take and impound every such Horse, Ass, Bullock, Cow, Sheep, Lamb, or other Beast, which shall be so found grazing as aforesaid, at any Time or Times after any Quicksets shall be planted next the Roads or Ways so fenced off as aforesaid before the Expiration of the said Term of Ten Years.

XXI. Provided always, and be it further enacted, That no Sheep or Lambs shall be kept in any of the Allotments to be made by virtue of this Act (whereon any new Fence shall be raised) during the Space of Seven Years next after the Execution of the said Award, unless the Person keeping the same shall first, at his or her own Expence, make and maintain a sufficient extra Fence to guard and protect the young Fences belonging to such Allotments from being hurt or damaged by such Sheep or Lambs (whether such young Fences be made or set by the Owner or Occupier of such Allotment as aforesaid, or by the Owner or Occupier of such Allotment or Allotments adjoining thereto); and in case any Person or Persons shall turn in and keep any Sheep or Lambs in any such Allotment or Allotments without raising and keeping up such Fences as aforesaid, it shall be lawful for the Owner or Occupier of any adjoining Allotment or Allotments, to enter into such Allotment or Allotments when, where, and so often as such Sheep or Lambs shall be so turned in or kept, and from Time to Time to take, drive away, and impound the same.

Sheep or Lambs not to be kept in the Allotments for Seven Years after the Execution of the Award.

XXII. And be it further enacted, That the said Commissioners shall assign, set out, and allot unto the Surveyors of the Highways within the said Parish of *Great Witchingham*, such Part of the Heaths, Commons, and Waste Grounds hereby directed to be divided and allotted, as the said Commissioners shall think necessary, not exceeding Four Acres, as and for public Watering Places for Cattle, and as and for public Sand, Gravel, Clay, Chalk, and Marl 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 *Great Witchingham*, and their Tenants for the Time being, in such Manner and under such Rules and Regulations as the said Commissioners shall by their Award direct or appoint and not otherwise.

Allotment for Watering Places and Gravel Pits, &c.

XXIII. And be it further enacted, That the said Commissioners shall in the next Place assign, set out, and allot unto the Lords of the Manors of *Witchingham Longvill Weston Longvill*, with the Members, and *Middleton*, and *Giles Athall*, the Vicar of the said Vicarage of *Great Witchingham*, and the Churchwardens and Overseers of the Poor of the said Parish of *Great Witchingham* for the Time being, such Part of the said Heaths, Commons, and Waste Grounds lying within the said Parish

Allotment to the Poor.

[Loc. & Per.]

14 B

of

of *Great Witchingham*, as they the said Commissioners shall think proper, for the Benefit of the Poor of the said Parish; and such Allotment shall from and after the Execution of the said Award, be vested in the Lords of the said Manors of *Witchingham Longvill Weston Longvill*, with the Members, and *Middleton*, and *Giles Atball*, the Vicar of the said Vicarage of *Great Witchingham*, and the Church-wardens and Overseers of the Poor of the said Parish of *Great Witchingham* for the Time being, for ever, as Trustees for the Poor of the said Parish of *Great Witchingham*; and shall be used as a Common by such poor Inhabitants of the same Parish who shall be legally settled therein and shall not occupy Lands and Tenements of more than the yearly Value of Five Pounds, at such Times of the Year, for such Purposes, in such Manner, and subject to such Rules, Orders, and Regulations as the Trustees for the same for the Time being, or the major Part of them, shall from Time to Time nominate, direct, appoint, or prescribe: Provided always, that it shall be lawful for the Lords of the said Manors, and the said Vicar respectively for the Time being, to act in the Execution of the Trusts hereby reposed in them as aforesaid by their Agents or Proxies respectively, to be appointed by Writing under their respective Hands.

Lords of
Manors and
Vicar to act by
Proxy.

Allotment of
the Residue.

XXIV And be it further enacted, That the said Commissioners shall then assign, set out, and allot all the Residue and Remainder of the said Heaths, Commons, and Waste Grounds hereby directed to be divided, allotted, and inclosed, unto and amongst all and every Person or Persons, and Body or Bodies Politic, Corporate or Collegiate, having any Right or Rights of Sheepwalk or Common, or any other Rights or Interests in, to, over, or upon the same, or any Part thereof, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportionate to the Value of and in full Satisfaction and Compensation to him, her, or them respectively, for his, her, or their respective Rights of Sheepwalk or Common, or other Rights or Interests in, over, or upon the said Heaths, Commons, and Waste Grounds, or any Part or Parts thereof.

Great Tythes
not to be pay-
able for Three
Years after
the Execution
of the Award.

XXV. Provided always, and be it further enacted, That no Great or Rectorial Tythes shall be due or payable for or in respect of any of the Allotments of the said Heaths, Commons, and Waste Grounds to be made in pursuance of this Act, for the Space of Three Years, to be computed from the Twenty-fourth Day of *June* One thousand eight hundred and ten; but that from and after the Expiration of the said Three Years, the said Warden and Scholars of *New College* in *Oxford*, and their Lessee of the said Improper Rectory of *Great Witchingham* for the Time being, shall be entitled to receive or take all and all Manner of Great or Rectorial Tythes arising or to arise from the same Allotments, or any of them.

Proprietors
admitted to
have a Right
of Common
except in cer-
tain Cases.

XXVI. Provided always, That the respective Owners and Proprietors of all the Lands and Grounds lying within the said Parish of *Great Witchingham*, who shall deliver in their Accounts or Claims in Manner prescribed by the said recited Act, shall be deemed to be entitled to and to have had and enjoyed a Right of Common of Pasture upon the said Heaths,
Commons,

Commons, and Waste Grounds, at all Times of the Year, for all their great and commonable Cattle levant and couchant upon their respective Lands (save and except where upon the Sale of any such Lands or Grounds the Common Rights thereto belonging shall have been reserved to the Seller or Vendor, in which Case the Seller or Vendor shall stand in the Place of such Owners and Proprietors in regard to the Common Rights so reserved, and shall have and receive the same Benefit and Advantage as such Owners or Proprietors would have had in case such Reservation had not been made).

XXVII. And be it further enacted, That if any Person or Persons (save and except the Warden and Scholars of *New College* in *Oxford*, and their Lessees, in respect of any Lands or Tenements held by them respectively under their respective Leases, and save and except the Vicar of the said Vicarage of *Great Witchingham*) hath or have sold or contracted, or agreed to sell, or shall at any Time before the Execution of the Award of the said Commissioners sell or contract, or agree to sell, his, her, or their Right, Interest, and Property, in, to, over, or upon the said Heaths, Commons, and Waste Grounds hereby directed to be divided, allotted, and inclosed, or any Part thereof, to any Person or Persons, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby authorized and required to make an Allotment of the Land unto the Vendee or Purchaser in every such Sale, Contract, or Agreement, or to his or her Heirs or Assigns, for and in respect of such Right, Interest, and Property so sold or contracted, and agreed to be sold, as aforesaid; and every such Vendee or Purchaser, or his or her Heirs or Assigns, shall, from and after the Execution of the said Award, hold and enjoy the Land so to be allotted to him, her, or them 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 Rights, Interest, or Property had been vested in such Vendor at the Time of making such Allotment as aforesaid.

In case any Persons shall sell their Common Rights, the Allotments to be made to the Purchasers.

XXVIII. 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 Politick, Corporate, or Collegiate respectively (save and except the Vicar of the Vicarage of *Great Witchingham* 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 Award order, direct, and appoint; and the Hedges, Ditches, Drains, and Fences, which shall be made pursuant to the said Award, shall at all Times thereafter be maintained and kept in Repair, and cleansed by such Person or Persons, and Body or Bodies Politick, Corporate, or Collegiate, as the said Commissioners shall by their said Award order and direct.

Fencing Allotments.

XXIX. And be it further enacted, That all Leases and other Agreements at Rack or extended Rent which are now subsisting, or respect all

Leases to be void as to Allotments, or which are to

be made to
the Land-
lords, and the
Tenants to
receive Satis-
faction.

or any Part of the Messuages, Lands, Tenements, Sheepwalk, or other Hereditaments within the said Parish of *Great Witchingham*, either alone or together with any other Lands, Tenements, or Hereditaments, shall, as far as such Leases or Agreements affect or concern any Allotment or Allotments to be made in respect of any such Messuages, Lands, Tenements, Sheepwalk, or Hereditaments comprised in such Leases or Agreements respectively, be, and the same are hereby declared to be, null and void as to such Allotment and Allotments; and such Allotment and 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 the Right and Interest which may or otherwise might be claimed in or to the same by virtue of such Leases or Agreements; and the Person or Persons, Body or Bodies Politick, Corporate, or Collegiate, to whom the Messuages, Lands, Tenements, Sheepwalk, or other Hereditaments comprised in such Leases or Agreements shall belong as Landlord or Landlords, shall make such Compensation to the Person or Persons entitled to the same under such Leases or Agreements, as the said Commissioners shall by Writing under their Hands direct for the Right of Sheepwalk, Common, or any other Rights or Interests in, over, or upon the said Heaths, Commons, and Waste Grounds, or any Part thereof appendant or appurtenant to such Messuages, Lands, or Tenements, or otherwise, and which shall be extinguished by this Act; and if any Person or Persons, or Body or Bodies Politick, Corporate, or Collegiate, shall refuse or neglect to make such Compensation to the Person or Persons entitled thereto on Demand, then and in such Case it shall be lawful 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: Provided always, that nothing herein contained shall extend or be construed to extend so as to render null and void any Lease or Leases granted by the Warden and Scholars of *New College in Oxford*, of any Messuages, Lands, Tenements, Tythes, or Hereditaments within the said Parish of *Great Witchingham*, or any Part or Parts of such Lease or Leases.

Except Leases
granted by
the Warden
and Scholars
of *New Col-
lege, Oxford*.

Allotments
to be of the
same Tenure
as the Lands
for which they
are allotted;

And Persons
taking Copy-
hold Allot-
ments to
apply to be
admitted,

XXX: And be it further enacted, That all such Parts of the said Heaths, Commons, and Waste Grounds as shall be assigned or allotted to any Person or Persons by virtue of this Act, for or in respect of any Messuages, Cottages, Lands, Tenements, and Hereditaments, which are holden by Copy of Court Roll of the Manors aforesaid, or either of them, or of any other Manor or Manors, or for or in respect of any Right of Common or other Right or Interest appurtenant or appendant to any such Copyhold Premises, shall be stated and described in the said Award as Copyhold, and shall be deemed and taken to be Copyhold of the said Manor or Manors respectively; and the several Persons to whom such Copyhold Allotments shall be made as aforesaid, shall within the Space of Six Calendar Months next after the Execution of the Award of the said Commissioners, or at the First General Court Baron for the Admission of Copyholders to be holden for the said Manors next after the Expiration thereof, be admitted Tenants to the same Allotments respectively, without paying any Fine or other Charges to the Lord or Lords, Lady or Ladies, or to the

Stewards of any of the said Manors (save and except the Stamp Duties and Parchment requisite to be used for the Copies of such Admissions respectively, and such reasonable Fees to the Stewards of the said Manors as the Commissioners shall in and by their said Award order and direct); but in case any Person or Persons, his, her, or their Heirs or Assigns, to whom any such Copyhold Allotment or Allotments shall be made, shall neglect or refuse to be admitted Tenant or Tenants thereto, within the said Six Calendar Months, or at such First General Court Baron to be holden as aforesaid, then it shall be lawful for the Lord or Lords, Lady or Ladies of the said Manor or Manors respectively for the Time being, to take and use all such Measures for compelling such Admission or Admissions to the said Allotment or Allotments respectively, as the Lord or Lords, Lady or Ladies of the Manor or Manors, is or are now by Law, and according to the Custom or Customs of the said Manor or Manors empowered to take and use, for Want of a Tenant to any Lands, Tenements, and Hereditaments holden by Copy of Court Roll of the said Manor or Manors; and in such Case the same Fine, Fees, and other Payments shall be due and payable on such Admission or Admissions respectively, as the Lord or Lords, Lady or Ladies, and Stewards of the said Manor or Manors are now by Law and the Custom of the same Manor or Manors entitled to take and receive upon Admissions to any Lands, Tenements, and Hereditaments holden by Copy of Court Roll of the said several Manors respectively; and that, from and after the First Admission to all the said Copyhold Allotments, the same shall for ever thereafter be holden under and subject to such Fines and Services as the said Copyhold Lands and Tenements respectively in respect whereof such Allotments shall be made are now subject and liable to; and that all other Parts of the said Heaths, Commons, and Waste Grounds which shall be assigned or allotted unto any Person or Persons by virtue of this Act, for and in respect of any Freehold or Leasehold Messuages, Cottages, Lands, Tenements, and Hereditaments, shall be deemed and taken to be Freehold and Leasehold, and shall be held and enjoyed as such accordingly, subject nevertheless to such Rents, Payments, Customs, and Services, as the respective Lands and Tenements in respect whereof the same shall be assigned or allotted are now subject and liable to.

Remedy in case of Refusal to be admitted,

XXXI. 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, out of, upon, or affecting, any of the Messuages, Buildings, Lands, or Grounds, to be divided, allotted, or exchanged by virtue of the said recited Act or this Act, or any Part or Parts thereof respectively, but that each and every Proprietor shall stand and be seised 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, for such and the same Estates, and subject to such and the same Wills, Jointures, Rents, and Charges, and no other, as the said Messuages, Buildings, Lands, and Grounds whereof such Proprietor was seised or possessed at, or immediately before the signing and sealing of the said Award, or for which or in respect whereof such Allotments or Exchanges shall

Wills or Settlements, not to be affected by this Act.

[Loc. & Per.]

14 C

be

be made, would have been subject to, charged with, or affected by, in case this Act had not been passed.

For paying
Expences, &c.

XXXII. And be it further enacted, That the Costs, Charges, and Expences of inclosing the Lands and Grounds which shall by virtue of this Act, and of the said recited Act, or either of them, be allotted to the Vicar of the said Vicarage of *Great Witchingham*, in Right of his said Vicarage, and of inclosing the Allotment or Allotments hereby directed to be made to the Surveyors of the Highways within the said Parish of *Great Witchingham*, and the Trustees for the Poor of the same Parish, and all the Costs and Charges incident to and attending the obtaining and passing of this Act, and of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands and Premises hereby or by the said recited Act directed to be surveyed, measured, planned, valued, divided, and allotted, and of preparing the said Award, and of the Copies thereof, and all the Charges and Expences of the said Commissioners, their Assistants and Servants, and all other necessary Charges and 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, and all other Expences of carrying this Act and the said recited Act into Execution, shall be borne, defrayed, and paid by the several Persons, and Body or Bodies Politick, Corporate, or Collegiate, to whom any Allotment or Allotments shall be made by virtue of this Act and of the said recited Act, (save and except the Vicar of the said Vicarage of *Great Witchingham* 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 Surveyors of the Highways within the said Parish, and the Trustees of the Poor of the same Parish for the Time being, for or in respect of the Allotments hereby directed to be made to them as aforesaid), in such Shares and Proportions, at such Time and Place, and to such Person and Persons, as the said Commissioners shall direct or appoint; and in case any of the Persons aforesaid shall neglect or refuse to pay his, her, or their Share or Shares of such Charges and Expences, or any Part thereof, to the Person or Persons who shall be appointed to receive the same within the Time to be limited by the said Commissioners as aforesaid, then and in such Case the said Commissioners shall cause the same to be levied and recovered in Manner directed by the said recited Act.

Lessee of
Warden and
Scholars of
New College,
Oxford, to
pay their Pro-
portion of Ex-
pences.

XXXIII. Provided always, and be it further enacted, That so much of the said Charges and Expences as shall become payable in respect of the Lands to be allotted unto and for the Warden and Scholars of *New College* in *Oxford*, for or on Account of any Messuages, Cottages, Lands, Tenements, or Hereditaments, now holden under a Lease or Leases from them, shall be borne, defrayed, and paid by the Lessee or respective Lessees of the said Premises, in respect of which such Allotment or Allotments shall be made.

Exchanges
may be
made.

XXXIV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, or

or Hereditaments whatsoever within the said Parish of *Great Witchingham*, in lieu of and in Exchange for any other Lands, Tenements, or 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 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 Politic, 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 Owner or Owners, Proprietor or Proprietors 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 disabled to act for themselves, himself, or herself, such Consent to be testified in Writing under the Common Seal or Seals of the Body or Bodies Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made, shall be 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 thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

XXXV. And be it further enacted, That all the Costs, Charges, and Expences attending the making and completing of any Exchanges and Partitions which shall be made under or by virtue of the said recited Act or this Act, shall be paid and borne by the several Persons making such Exchanges and Partitions, in such Manner and in such Proportions as the said Commissioners shall by their Award order and direct.

Expences of Exchanges how to be paid.

XXXVI. Provided always, and be it further enacted, That once in each and every Year during the Execution of this Act (such Year to be computed from the Day of the passing thereof), the said Commissioners shall, and they are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble and Expences in the Execution of this Act; and such Statement or Account when so made, together with the Vouchers relating to the same, shall be by them laid before any One or more Justice or 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 him or them stated in the Book of Accounts by the said recited Act required to be kept at the Office of the Clerk to the said Commissioners, and

Commissioners to account.

and no Charge or Item in such Account shall be binding on the Parties concerned, or be valid in the Law, unless the same shall be duly allowed by such Justice or Justices as aforesaid.

Directions
for charging
Copyhold
Lands with
Expences.

XXXVII. 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 the said recited Act or of this Act, and which shall be or become Copyhold, with any Sum or Sums of Money by Way of Mortgage, for paying and defraying any Share or Shares of the Costs and Expences of obtaining and executing this Act and the said recited Act, then and in such Case such Copyhold Lands and Premises shall be surrendered to the Use of such Person or Persons who shall advance and lend such Sum or Sums of Money, 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, or Assigns, for a Term of Years as mentioned in the said recited Act.

Persons ad-
vancing
Money to be
repaid with
Interest.

XXXVIII. And be it further enacted, That if any of the Proprietors or Persons interested in the Lands and Grounds hereby directed to be divided, allotted, and enclosed, or any other Person or Persons, shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, and of executing the said recited Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioners, together with lawful Interest for the same.

For inrolling
and depositing
the Award.

XXXIX. 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 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, with or without a 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 Pounds and Two Shillings 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.

original Award shall be deposited in a Tin Box, and kept in the Parish Church of *Great Witchingham* aforesaid.

XL. And be it further enacted, That if any Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this or the said recited Act, (other than and 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 and 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 and in every such Case the said Justices shall award such Costs to be paid by the Appellant or Appellants as to them in their Discretion shall seem reasonable, and such Costs shall be levied in Manner aforesaid.

Appeal to
the Quarter
Sessions.

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 Politic, Corporate or Collegiate, his, her, and their Heirs, Successors, Executors, and Administrators, (except the several Persons and Body or Bodies Politic, Corporate or Collegiate, to whom any Allotment or Allotments shall be made by virtue and in pursuance of this Act, and of the said recited Act, for and in respect of such Rights or 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.

General
Savings.

1210

49° GEORGII III. *Cap.* 64.

Declaring the
Act to be
Public.

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. 1809.