

49 Geo III 1809.

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AN
ACT
FOR

Inclosing Lands in the Parishes of *Maxey with Deepingate, Northborough, Glington with Peakirk, Etton, and Helpstone*, in the County of *Northampton*.

WHEREAS there are within the Parishes of *Maxey with Deepingate, Northborough, Glington with Peakirk, Etton, and Helpstone*, in the Hundred of *Nassaburgh*, in the Soke of *Peterborough*, in the County of *Northampton*, divers Open and Common Fields, Common Meadows, Pastures, and divers Commons and Waste Grounds, to the said several Parishes or to some of them belonging :

Preamble.

And whereas the Right honourable *Alleyne, Lord St. Helens, John Lord Henniker, the Reverend William Burslem, Clerk, and Evan Foulkas, Esquire*, as Devisees in Trust of all the real Estates of the Most honourable *Henry late Marquis of Exeter*, deceased, claim to be Lords Paramount of the said Hundred of *Nassaburgh*, and Soke of *Peterborough* :

And whereas the Right honourable *William Wentworth, Earl Fitzwilliam*, claims to be Lord of the several Manors called *Maxey with its Members, Northborough, Etton, and Helpstone*, in the said County of *Northampton* ; and the Reverend the Dean and Chapter of the Cathedral Church of the Borough of Saint *Peter* otherwise *Peterborough*, in the said County, claim to be Lords of the Manors of *Glington with Peakirk* ; and the said Dean and Chapter of *Peterborough* also claim to be Lords of the Manor called *Maxey with Northborough* :

Inclosing Lands in the Parishes of *Maxey with Deepingate, Northborough, Glington with Peakirk, Etton, and Helpstone*, in the County of *Northampton*.

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And whereas the said several Persons, as Lords Paramount, and Lords of the said several Manors as aforesaid, do severally claim to be entitled to or interested in the Soil of the said Commons and Waste Grounds:

And whereas the said Earl *Fitzwilliam* claims to be Patron of the Rectory of *Etton*; and the said Dean and Chapter of *Peterborough* are Patrons of the Rectory of *Glington with Peakirk* and of the Rectory of *Northborough*, and are Owners of the Improprate Rectory of *Maxey with Deepingate*, and Patrons of the Vicarage of *Maxey with Deepingate*; and the Master, Fellows, and Scholars of *Christ's College*, in the University of *Cambridge*, are Improprators of the Improprate Rectory of *Helpstone*, and claim to be Patrons of the Vicarage there:

And whereas the Reverend *Samuel Edmund Hopkinson*, Clerk, is Rector of the Rectory of *Etton*; and the Reverend *Benjamin Barnard*, Clerk, is Rector of the Rectory of *Glington with Peakirk*; and the Reverend *William Head*, Clerk, is Rector of the Rectory of *Northborough*, and as such are respectively entitled to Parsonage Houses, Glebe Lands, and Rights of Common thereto belonging within the said Rectories respectively, and to the Great and Small Tythes arising within their respective Parishes, or the Tytheable Places of the same; and *William Loftus*, Clerk, is Vicar of the Vicarage of *Maxey with Deepingate*; and *John Jackson Serocold*, Clerk, is Vicar of the Vicarage of *Helpstone*, and the said Vicars are as such respectively entitled to Parsonage Houses, Glebe Lands, and Rights of Common thereto belonging within their said Vicarages respectively, and to certain Tythes or Payments in lieu of Tythes arising within the same:

And whereas the said Earl *Fitzwilliam* is Lessee, under the said Dean and Chapter of *Peterborough*, of the said Improprate Rectory of *Maxey with Deepingate*, and is also Lessee, under the said Master, Fellows, and Scholars, of the said Improprate Rectory of *Helpstone*:

And whereas *Thomas Butcher*, Gentleman, is Lessee under the Right Reverend *Spencer* Lord Bishop of *Peterborough*, in Right of his Episcopal See of certain Lands, with the Commons thereto belonging, in *Peakirk* and *Etton*, for Lives absolute; and such Part thereof as lies in *Peakirk* are all free of Great Tythes, being Part of the Possessions of the late Monastery at *Peterborough*:

And whereas the said Earl *Fitzwilliam*, the said Lord Bishop of *Peterborough*, in Right of his See, the said Dean and Chapter of *Peterborough*, Sir *John Wyldbore Smith*, Baronet, *Abel Walford Bellairs*, *John Molecey*, *Millicent Clark*, *Elizabeth Wright*, *Benjamin Bull*, *Thomas Jackson*, *Robert Henson*, *Ann Scott*, *John Scott*, and divers other Persons, are respectively the Owners and Proprietors of the several other Messuages, Cottages, and Tenements, Arable, Meadow, and Pasture Lands, within and appurtenant to the said several Parishes:

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 some Parts of the said Arable, Meadow, and Pasture Lands are intermixed, and otherwise inconveniently situated for the respective Owners and Occupiers thereof, and the said Commons and Waste Grounds yield but little Profit, and in their present State are incapable of any considerable Improvement, and it would be very advantageous if the said Arable, Meadow, and Pasture Lands, and also the said Commons and Waste Grounds, were divided and inclosed, and specific Shares thereof allotted to the several Persons interested therein, in proportion and according to their respective Estates, Rights, and Interests; But such Division, Allotment, and Inclosure cannot be effected 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 *Edward Hare*, of *Castor* in the County of *Northampton*, *William Cusance*, of *Cambridge* in the County of *Cambridge*, and *Charles Berkeley*, of *Biggen* in the Parish of *Oundle* in the said County of *Northampton*, Gentlemen, and their Successors to be elected in manner hereinafter mentioned, shall be and they are hereby appointed Commissioners for dividing, allotting, and inclosing the said Open and Common Fields, Common Meadows, Pastures,

Commissioners appointed.

Two Com-
missioners
may act.

and all Commonable Lands and Waste Grounds within the said Parishes or any of them, and thereto and to every or any of them, or the ancient Estates there respectively belonging or in anywise appertaining, (save and except the Common called *Great Borough Fen*) and for putting this Act into execution, subject to the Provisions of the said recited Act, except in such Cases where the same are hereby varied or altered: Provided always, that it shall and may be lawful for any Two of the said Commissioners, or their Successors to be elected in manner hereinafter mentioned, and they are hereby fully authorized and empowered to execute, do, and perform all, and every, or any Matter or Thing either by this or the said recited Act authorized to be done and performed by the said Commissioners; and every such Matter and Thing which shall be executed, done, and performed by any Two of the said Commissioners for the Time being, shall be as valid and effectual to all Intents and Purposes as if all the said Commissioners hereinbefore appointed, or to be elected in manner hereinafter mentioned, had been present and had executed, done, and performed the same.

Appoint-
ment of new
Commission-
ers.

And be it further Enacted, That in case the said *Edward Hare* shall die, neglect, or refuse to act, or be rendered incapable of acting as a Commissioner in the Execution of this Act, then and in such Case the surviving or remaining Commissioners or Commissioner shall, within Twenty Days next after such Death, Neglect, Refusal, or Incapacity of the said *Edward Hare* to act shall happen or be known to them or him, give Notice thereof in Writing to the said Lords of the said several Manors for the Time being or the major Part of them, or to their known Agents, who shall, within Twenty Days after such Notice, by Writing under their Hands or under the Hands of their known Agents, nominate and appoint One other Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the room and stead of the said *Edward Hare*, and so from Time to Time as often as any Commissioner, so to be appointed by the said Lords of the said Manors, shall die, neglect, or refuse to act, or become incapable of acting as aforesaid; and that in case the said *William Cusance* shall die, neglect, or refuse to act, or be rendered incapable of acting as a Commissioner in the Execution of this Act, then and in such Case the surviving or remaining Commissioners or Commissioner shall, within Twenty Days next after such Death, Neglect, or Refusal to Act, or Incapacity of the said *William Cusance* shall happen or be known to them or him, give Notice thereof in Writing to the said several Patrons, Impropriators, and their

their Lessees, Rectors, and Vicars for the Time being, or the major Part of them or their Successors, or to their known Agents, who shall within Twenty Days after such Notice, by Writing under his or their Hand or Hands, nominate and appoint One other Person (not interested in the said Division and Inclosure) to be a Commissioner in the room and stead of the said *William Cusance*, and so from Time to Time so often as any Commissioner, so to be appointed as last aforesaid, shall die, neglect, or refuse to act, or become incapable of acting as aforesaid; and that in case the said *Charles Berkeley* shall die, neglect, or refuse to act, or become incapable of acting as a Commissioner in the Execution of this Act, that then and in such Case the surviving or remaining Commissioners or Commissioner shall, within Twenty Days next after such Death, Neglect, Refusal, or Incapacity of the said *Charles Berkeley* to act, shall happen or be known to them or him, give Notice thereof to the Owners and Proprietors of the Lands and Grounds hereby directed to be divided, allotted, and inclosed (except the said several Lords of Manors, Patrons, Impropriators, and their Lessees, Rectors, and Vicars as aforesaid) in the News-papers called *The Cambridge Chronicle and Journal*, and *The Lincoln, Stamford, and Rutland Mercury*, or some other News-paper usually circulated in that Part of the County of *Northampton* where the Lands to be inclosed lie, and also in each of the said Parish Churches and Chapels of *Maxey with Deepingate*, *Northborough*, *Glington with Peakirk*, *Etton*, and *Helpstone*, in the said County of *Northampton*, upon a Sunday immediately before Divine Service, by affixing the same in Writing upon the principal outer Doors of the said Parish Churches and Chapels; and in such Notice the said surviving or remaining Commissioners or Commissioner shall appoint a Time and Place (within the Limits hereby appointed for holding the said Meetings generally for the Purposes of the said intended Division and Inclosure) for the said Owners and Proprietors to meet, within Twenty Days after such Notice, for the Appointment of another Person (not interested in the said intended Division and Inclosure) in the place and stead of the said *Charles Berkeley*, and the majority in Value of the said Owners and Proprietors of the said Lands and Grounds so to be divided, allotted, and inclosed (except as aforesaid) who shall by themselves or their known Agents, or other Agents duly authorized by Writing, attend such Meeting, shall and may, by Writing under their Hands, appoint another Person (not interested in the said intended Division and Inclosure) to be a Commissioner in the place and stead of the said *Charles Berkeley*, and so from Time to Time as often as any Commissioner so to be appointed by the said Owners and Proprietors shall die, neglect, or become incapable of acting as aforesaid;

aforesaid; but in case the Persons respectively hereinbefore enabled and authorized to appoint a Commissioner or Commissioners as aforesaid, shall refuse or neglect to appoint such Commissioner or Commissioners in the place and stead of the Commissioner or Commissioners so dying, neglecting, refusing, or becoming incapable of acting as aforesaid, within Twenty Days after such Notice or Notices shall have been given as aforesaid, then and in such respective Cases the surviving or remaining Commissioner or Commissioners shall, within the space of Twenty Days next after such last-mentioned Refusal or Neglect, by Writing under their or his Hand or Hands appoint a Commissioner or Commissioners, not interested in the said Division and Inclosure, in the place and stead of each of such Commissioners so dying, neglecting, or becoming incapable of acting as aforesaid, whose Place or Places shall not have been filled up by the respective Persons enabled to elect or appoint such new Commissioner or Commissioners as aforesaid; and every Commissioner, so to be nominated and appointed, shall have the same Powers and Authorities of acting in the Execution of this and the said recited Act as the Commissioner in whose place or stead he shall succeed was vested with; and every Appointment of a new Commissioner shall be enrolled at the same Time and in the same Place as the Award or Instrument of the said Commissioners.

Notice of
Meetings.

And be it further Enacted, That the said Commissioners shall and they are hereby required to cause Notice to be given by Advertisement in the News-papers called *The Cambridge Chronicle and Journal*, and *The Stamford, Lincoln, and Rutland Mercury*, or in some other News-paper published or circulated in that Part of the said County of *Northampton* where the said Lands and Estates lie, and also by Writing to be affixed on the principal outer Doors of the several Parish Churches and Chapels aforesaid, of the Time and Place of their first Meeting for executing the Powers hereby vested in them, at least Ten Days before such Meeting, and shall also cause Ten Days Notice at the least, to be given in Writing, in like Manner, of every subsequent Meeting for the like Purposes (Meetings by Adjournment only excepted): Provided always, that if at any Meeting appointed to be holden as aforesaid it shall happen that only One of the said Commissioners shall attend, such Commissioner so attending may adjourn such Meeting to such Time within the space of One Month, and to such Place within any of the said Parishes, or within Eight Miles of the same, as he shall think most convenient, giving Notice thereof to the absent Commissioners: Provided always, that all Meetings of the said Commissioners in the Execution

tion of this or the said recited Act shall be held within some of the said Parishes, or within Eight Miles of the same.

Provided always, and be it further Enacted, That all other Notices necessary or requisite to be made and given by the said Commissioners shall be so made and given by Advertisement in the said News-papers, or in case the same shall not be then published, in some other News-paper published or circulated in that Part of the said County of *Northampton* in which the said Lands do lie, and by Notices to be affixed on the outer Doors of the said several Churches and Chapels as aforesaid.

Other No-
tices how to
be given.

And be it further Enacted, That no Person acting as a Commissioner in the Execution of this or the said recited Act shall act as a Surveyor for the Purposes thereof during the Time he shall be a Commissioner.

Commis-
sioners not to
act as
Surveyors.

And be it further Enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the said Open and Common Fields, Common Meadows, Pastures, Commonable Lands, and Waste Grounds, shall be deemed Part thereof, and shall be divided and allotted accordingly, save and except in such Cases only where Encroachments or Inclosures have been made upon the said Commonable Lands and Waste Grounds with the Consent of the Lord or Lords, Lady or Ladies of any Manor or Manors within the said Parishes; and in case any Dispute or Difference shall arise touching any such Encroachments or the Extent thereof, such Dispute or Difference shall be determined by the said Commissioners.

Respecting
Encroach-
ments.

And be it further Enacted, That in order to shorten the Boundary-Fences between the Lands and Grounds by this Act directed to be divided, allotted, and inclosed, and any adjoining Parish or Parishes, it shall and may be lawful to and for the said Commissioners, with the Consent in writing under the Hand or Hands of the Lord or Lords, Lady or Ladies of the Manor or Manors; or Owner or Owners of the Soil, and under the Hands of the major Part in Value of the Land-Owners in any Parish or Parishes interested in any Commons or Waste Grounds adjoining to the said several Parishes of *Maxey with Deepingate, Northborough, Glinton with Peakirk, Etton, and Helpstone*, and also under the Hand or Hands of the Owner or Owners of any adjoining Lands upon which such Fence or Fences are intended to be made, to set out and ascertain the Boundary Fences to be made between the said Commons and Waste Grounds adjoining to the Lands and Grounds

Power to
shorten
Boundaries.

Grounds hereby intended to be divided, allotted, and inclosed, in such Manner as they shall judge proper for the Purposes aforesaid, and after such Boundary-Fences shall be set out and ascertained as aforesaid, the same shall be fenced by such Person or Persons, in such Manner, and at such Time or Times, as the said Commissioners shall order and direct in and by their Award, and shall for ever thereafter be and be deemed and taken to be the Boundaries between the said several Parishes of *Maxey with Deepingate, Northborough, Glinton with Peakirk, Etton, and Helpstone*, and such adjoining Parish or Parishes as aforesaid, any Law Usage, or Custom to the contrary notwithstanding.

Commissioners to settle Disputes;

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 respective Rights and Interests claimed by the said Lords Paramount, and the Lords of the before-mentioned Manors, or any of them, in or to the Soil of the said Commons and Waste Grounds, or touching or concerning any other Rights or Interests which such Parties or any of them shall claim to have in or upon the Lands and Grounds hereby directed to be divided and allotted, or concerning any Timber, Wood, Underwood, Bushes, Thorns, Whins, or Furze growing thereon, or concerning any Allowance claimed or to be claimed for ploughing and sowing Turnips or Corn, laying down with Grass-Seeds, manuring or improving the said Arable, Meadow, and Pasture Lands, or any Part thereof, 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 authorize the said Commissioners to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

but not to determine Titles.

Commissioners may assess Costs.

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 this or the said recited Act, see Cause to award any Costs, it shall be lawful to and for the said Commissioners and they are hereby authorized and required, 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

said Commissioners shall be made, by the Person or Persons, or Body or Bodies Politic, 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 Politic, Corporate or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, then and in such Case it shall 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) upon 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.

Provided always, and be it further Enacted, That in case any Person or Persons, or Body or Bodies Politic, 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 Claim or Claims of or for any Right of Soil, Sheepwalk, or Common, or other Commonable Rights or Interests in, over, upon, or out of the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, or concerning any Objection or Objections made to such Claim or Claims, then and in every such Case it shall be lawful to and for the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, so dissatisfied, to have the Matter of any such Claim or Objection tried at Law at the next or at the Second Assizes to be holden for the County of *Northampton*, and for that Purpose the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be dissatisfied with such Determination of the said Commissioners, shall cause an Action or Actions to be brought against either of the said Commissioners, or any One or more of the Person or Persons in whose Favour such Determination shall have been made, in one of His Majesty's Courts of Record at *Westminster*, within Four Calendar Months next after such Determination shall have been made; and the Defendant or Defendants in such Action or Actions shall and he, she, or they is and are hereby required forthwith to name an Attorney or Attornies, and

Parties may try their Rights at Law.