



ANNO QUINQUAGESIMO PRIMO

GEORGI II. REGIS.

Cap. 119.

An Act for inclosing Lands in the Parishes of *Fundenhall* and *Ashwellthorpe*, in the County of *Norfolk*.
[21st May 1811.]

WHEREAS there are within the Parishes of *Fundenhall* and *Ashwellthorpe*, in the County of *Norfolk*, certain Field Lands; and there are within the same Parishes certain Commons and Waste Grounds: And whereas *Robert Wilson* Esquire is or claims to be Lord of the Manors of *Ashwellthorpe cum Wreningham*, and *Fundenhall cum Hapton*; and *Thomas Trench Berney* Esquire is or claims to be Lord of a Manor in right or in respect of the Rectory of *Fundenhall* or otherwise, and also Impropiator of the Rectory and Vicarage of *Fundenhall* aforesaid: And whereas the said *Robert Wilson*, *Thomas Trench Berney*, *John Howard*, *Thomas Utting*, *Joseph Osgood Freame*, *Edward Youngman*, *William Fawcett* Clerk, *Charles Brown*, *Robert Harvey*, *David Skippen*, and several other Persons are respectively the Owners and Proprietors of all the Messuages, Cottages, Lands and Tenements within the said Parishes of *Fundenhall* and *Ashwellthorpe*: And whereas an Act was made in the Forty-first Year of His present Majesty's Reign, 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 Commons and Waste Grounds, in their present State and Condition, yield very little Profit to the several Persons interested therein; and the said Field Lands are inconveniently situated for the respective Owners and Proprietors thereof, and it would be greatly advantageous to

[Loc. & Per.]

27 B

the

Appointment
of Com-
missioners.

the several Persons interested in the Premises, if the Rights of Common in, over and upon the said Commons and Waste Grounds were extinguished, and if the said Field Lands, Commons and Waste Grounds were divided, and specific Parts or Shares thereof allotted to the several Persons interested therein, according to their respective Shares, Estates, Rights and Interests in over and upon the same; but as these Objects cannot be attained 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 *John Dugmore* of *Swaffham*, in the County of *Norfolk*, Gentleman, and *John Futter* of *Ketteringham*, in the said County, Gentleman, 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 Field Lands, Open Fields, Commons and Waste Grounds, and for carrying this Act into Execution, with such of the Powers, and subject to such of the Directions and Provisions contained in the said recited Act, as are not varied or altered or otherwise provided for by this Act.

Umpire
appointed.

II. And for the Purpose of settling and determining any Difference or Dispute which may arise between the said Commissioners, touching or concerning any of the Matters and Things to be by them determined, performed or executed in pursuance of the said recited Act or this Act; be it further enacted, that *Henry Bell*, of *Wallington*, in the said County, Esquire, shall be an Umpire, and he is hereby authorized to hear and determine every such Difference or Dispute as may arise between the said Commissioners touching any Matter or Thing relating to the said Division, Allotment and Inclosure, or otherwise, in the Execution of this Act; and the Judgment and Determination of the said Umpire therein shall be deemed and considered to be the Judgment and Determination of the said Commissioners, and shall be final and conclusive upon the said Commissioners, and upon all other Persons concerned in the said Division and Inclosure, so far as the Judgment and Acts of the said Commissioners are made final and conclusive.

Appointment
of New Com-
missioners.

III. And be it further enacted, That if the said *John Dugmore* shall die, or refuse to act, or shall become incapable of acting as a Commissioner in the Execution of this Act or the said recited Act, before all the Powers, Authorities and Trusts hereby vested and reposed in the said Commissioners shall be fully executed and performed, the said *Robert Wilson*, or the Lord or Lords of the said Manor of *Ashwellthorpe cum Wreningham* for the Time being, shall and may, at any Time within Thirty Days next after such Death, Refusal or Incapacity to act shall happen, by Writing under his or their Hand or Hands, appoint another Person (not being interested in the Premises) to be a Commissioner for the Purposes of this Act in the Place of the said *John Dugmore*; and also to make the like Appointment when and so often as any Person to be appointed a Commissioner in the Place of the said *John Dugmore* shall die, or refuse to act, or become incapable of acting as aforesaid; but if the said *Robert Wilson*, or the Lord or Lords of the said Manor of *Ashwellthorpe cum Wreningham*, for the Time being, shall neglect or refuse to make such Appointment or Appointments as aforesaid, within the Time hereby for that Purpose limited

mitted, then, and in every such Case, it shall and may be lawful to and for the major Part in Value of the several Proprietors of Estates in the said Parish of *Ashwellthorpe*, (such Value to be ascertained by the preceding Land Tax Assessment for that Parish, or some other convenient Means) who shall attend by themselves, or their Agents or Attornies, at a Meeting to be holden for that Purpose, of which Meeting, and for the Purpose thereof, and of the Place of holding the same within the said Parish of *Ashwellthorpe*, or within Five Miles thereof, Thirty Days' Notice at the least shall be given by Advertisement (signed with the Name or Names of any One or more of the said Proprietors) in the *Norwich Mercury*, or *Norfolk Chronicle*, or in some other Newspaper then printed or circulated in the said County of *Norfolk*, and such Notice to be inserted weekly until and to the *Saturday* next previous to the Day of Election, to nominate, elect and appoint by Writing under their Hands, or under the Hands of their Agents or Attornies from Time to Time, some fit and proper Person (not being interested in the Premises) to be a Commissioner in the Room or Stead of the said *John Dugmore*, or of any Person to be appointed in his Room or Stead; and if the said *John Futter* shall die or refuse to act, or become incapable of acting as a Commissioner in the Execution of this Act, before all the Powers, Authorities and Trusts hereby vested and reposed in the said Commissioners shall be fully executed and performed, then, and in such Case, it shall be lawful for the major Part in Value of the several Proprietors of Estates in the said Parish of *Fundenhall*, (such Value to be ascertained by the preceding Land Tax Assessment for that Parish, or by some other convenient Means) who shall attend by themselves, or their Agents or Attornies, at a Meeting to be holden for that Purpose, of which Meeting, and the Purpose thereof, and of the Place of holding the same within the said Parish of *Fundenhall*, or within Five Miles thereof, Thirty Days' Notice at the least shall be given by Advertisement (signed by the Name or Names of any One or more of the said Proprietors) in the *Norfolk Chronicle*, or *Norwich Mercury*, or in some other Newspaper then printed or circulated in the said County of *Norfolk*, and such Notice to be inserted weekly until and to the *Saturday* next previous to the Day of Election, to nominate, elect and appoint, by any Writing under their Hands, or under the Hands of their Agents or Attornies, some fit and proper Person (not being interested in the Premises) to be a Commissioner in the Room or Stead of the said *John Futter*; and also to make the like Nomination, Election and Appointment when and so often as any Person to be appointed a Commissioner in the Place of the said *John Futter* shall die, or refuse to act, or become incapable of acting as aforesaid; and every Person so to be appointed a Commissioner as aforesaid shall, after taking and subscribing the Oath prescribed by the said recited Act in that Behalf, have the like Powers and Authorities for carrying the said recited Act and this Act into Execution, in all respects as if he had been named and appointed a Commissioner in and by this Act.

IV. And be it further enacted, That if the said *Henry Bell*, or any future Umpire to be appointed as hereinafter is mentioned, shall refuse to act, or qualify himself as an Umpire under this Act, or shall die, or become incapable of acting before the Powers, Authorities and Trusts reposed in the said Commissioners shall have been fully executed and performed, then the said Commissioners, before they proceed further in the Execution of this

For the Appointment of new Umpire.

this Act, are hereby authorized and required to appoint, by Writing under their Hands, some other fit Person (not being interested in the Premises) to be an Umpire in the Place of the Umpire so refusing to act, or to qualify, or dying, or becoming incapable of acting as aforesaid; and every Umpire to be appointed in the Manner hereinbefore mentioned, shall have the like Powers and Authorities as are by this Act vested in the Umpire hereby appointed: Provided always, that the Instrument of Appointment of every Commissioner and Umpire to be appointed by virtue of this Act, shall be annexed to the Award of the Commissioners, and be deposited therewith in Manner hereinafter mentioned.

Oath to be
taken by
Umpire.

V. Provided also, and be it further enacted, That no Person shall be capable of acting in the Execution of this Act as Umpire, until he shall have taken and subscribed an Oath in the following Form: (that is to say)

‘ I *A. B.* do swear, that I will faithfully, impartially and honestly,
‘ according to the best of my Skill and Ability, execute and perform
‘ the Trusts, Powers and Authorities vested and reposed in me as Umpire
‘ by virtue of an Act passed in the Fifty-first Year of the Reign of King
‘ *George* the Third, intituled, [*here set forth the Title of this Act*] according
‘ to Equity and good Conscience, and without Favour or Affection, Pre-
‘ judice or Malice to any Person or Persons whomsoever.

‘ So help me GOD.’

Which Oath it shall be lawful for the said Commissioners or either of them to administer, and they are hereby required to administer the same; and such Oath so taken and subscribed by such Umpire shall be annexed to the Award of the said Commissioners, and be deposited therewith in Manner hereinafter mentioned.

Appointment
of Surveyors.

VI. And be it further enacted, That *Baily Bird* of the City of *Norwich*, Land Surveyor, shall be the Surveyor of the Lands, Grounds and Hereditaments within the said Parish of *Fundenhall*, for the Purposes of this Act, during the Will and Pleasure of the said Commissioners; and that *William Salter Millard* of the same City, Land Surveyor, shall be the Surveyor of the Lands, Grounds and Hereditaments within the said Parish of *Ashwellthorpe*, for the Purposes of this Act, during the Will and Pleasure of the said Commissioners; and on the Death or Removal of the said *Baily Bird* or *William Salter Millard*, it shall be lawful for the said Commissioners by Writing under their Hands, to appoint One or more fit and proper Person or Persons (not being interested in the Premises) to be Surveyor or Surveyors for the Purposes of this Act, for and during the Will and Pleasure of the said Commissioners; and on any future Vacancy in like Manner to appoint some other fit and proper Surveyor or Surveyors for the Purposes aforesaid, and so from Time to Time as often as there shall be Occasion; and every such Surveyor shall at the first Meeting of the said Commissioners after his and their Appointment, take and subscribe an Oath in the Form hereinafter set forth.

VII. And be it further enacted, That no Person shall be capable of acting as a Surveyor in the Execution of this Act, until he shall have taken and subscribed an Oath in the Form following: (that is to say)

‘ I do sincerely promise and swear, that I will act in the Execution of
‘ the Powers, Authorities and Trusts reposed in me as a Surveyor, by
‘ virtue

• virtue of an Act passed in the Fifty-first Year of the Reign of King George
 • the Third, intituled, [*here set forth the Title of this Act*] truly, impartially
 • and honestly, according to the best of my Skill, Judgment and Ability,
 • without Favour or Affection, Prejudice or Malice to any Person or Per-
 • sons whomsoever. ‘ So help me GOD.’

And either of the said Commissioners is hereby authorized to administer the said Oath to the said Surveyors, and the Oath so taken and subscribed by each Surveyor shall be annexed to the Award of the said Commissioners, and be deposited therewith in Manner hereinafter mentioned.

VIII. And be it further enacted, That the said Commissioners shall and they are hereby required to cause Notice in Writing of the Time and Place of their first and every other Meeting, for the Execution of this Act, to be inserted in the *Norfolk Chronicle*, or *Norwich Mercury*, or in some other Newspaper printed or circulated in the said County of *Norfolk*, Eight Days at least before every such Meeting (Meetings by Adjournment only excepted); and if at any Meeting appointed to be held by the said Commissioners no more than One of the said Commissioners shall attend, such Commissioner may adjourn such Meeting to such Place within the said Parishes of *Fundenhall* and *Ashwellthorpe*, or within Five Miles from the Boundaries of the said Parishes, or one of them, as he shall think most convenient, giving Notice of such Adjournment to the absent Commissioner: Provided always, That all other Notices necessary or requisite to be given by the said Commissioners in pursuance of the said recited Act or of this Act, shall be given by Advertisement in the said *Norfolk Chronicle*, or *Norwich Mercury*, or in some other Newspaper printed or circulated in the said County of *Norfolk*.

Notice of
Commission-
ers' Meetings.

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 Claim or Claims, Objection or Objections relating to the Boundaries of any of the Parishes or Manors aforesaid, or to any Common Right, Timber, Wood, Underwood, Bushes, Thorns, Whins or Furze on the said Commonable Lands, or concerning any other Matter or Thing relating to the said Division and Allotments, it shall be lawful for the said Commissioners and Umpire respectively, and they are hereby authorized and required to examine into, hear and determine the same: Provided always, That nothing herein contained shall extend or be construed to enable the said Commissioners or Umpire to determine the Title to any Messuages, Cottages, Lands, Tenements or Hereditaments whatsoever; nor to determine any Right between any Parties contrary to the Possession of any of such Parties (except in Cases of Encroachments made within the Period of Twenty Years, as herein mentioned); but in case the said Commissioners or Umpire 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.

Commission-
ers to settle
Differences.

Commission-
ers not to
determine
Titles.

X. And be it further enacted, That in case the said Commissioners or Umpire respectively shall, upon the Hearing and Determination of any Claim or Claims, Objection or Objections, to be delivered to them or

Commission-
ers may assess
Costs.

[*Loc. & Per.*]

27 C

him

him in pursuance of this Act or the said recited Act, or upon the Hearing and Determination of any such Dispute or Difference as aforesaid, see Cause to award any Costs, it shall be lawful for the said Commissioners and Umpire, and they are hereby respectively 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, 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 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.

Power to try
Rights by an
Issue at Law
at the Assizes.

XI. 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 or Umpire, touching or concerning any Claim or Claims of any Right or Interest in, over or upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, or any Objection or Objections thereto respectively, then, and in every such Case, it shall be lawful for such Person or Persons, Body or Bodies Politic, Corporate or Collegiate so dissatisfied, to proceed to a Trial at Law of the Matters so determined by the said Commissioners or Umpire, at the then next or following Assizes to be holden for the said County of *Norfolk*, and for that Purpose, the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be dissatisfied with the Determination of the said Commissioners or Umpire, shall within One month next after such Determination shall be made and publicly declared, either at some Meeting of the said Commissioners, or by Notice in Writing under their Hands, delivered to the Parties interested, or left at their usual Places of Abode, cause an Action to be brought upon a feigned Issue against the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, in whose Favour such Determination shall have been made; and the Defendant or Defendants in such Action or Actions shall, and he, she and they is and they are hereby required to name an Attorney or Attornies, who shall appear thereto or file Common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties differ about the same); and if at the Trial of any such Issue or Issues, it shall appear that the Party claiming is entitled to any qualified or less Rights or Interests than was or were claimed by

by such Party, then it shall and may be lawful for the Jury, by whom such Issue or Issues shall be tried, to find and declare the same by their Verdict, which shall be indorsed on the Postea in addition to the Verdict given on the Issue or Issues joined; but nevertheless, the Costs of such Action or Actions shall abide and be determined by the Verdict given upon the Issue or Issues joined, as if no such Special Finding had been made; and the Verdict or Verdicts which shall be given in such Action or Actions upon the Issue or Issues therein joined, in case there shall be no such Special Finding and Indorsement, or such Special Finding or Indorsement, if any such shall be made, shall be binding, final and conclusive upon all 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, or Finding and Indorsement, and order a new Trial or Trials to be had therein, which it shall be lawful for the Court to do if the said Court shall think proper; and after such Verdict or Verdicts, or Special Finding and Indorsement 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 Verdict or Verdicts, or Finding and Indorsement as aforesaid: Provided always, that the Determination of the said Commissioners touching such Claim or Claims of the Rights or Interests into, over or upon the Lands and Grounds hereby directed to be divided and allotted, or any Part thereof, which shall not be objected to in due Time, or being objected to, the Party or Parties objecting shall not cause such Action at Law to be brought and proceeded in as aforesaid, shall be binding, final and conclusive upon all Parties.

If no Action, the Commissioners' Determination to be final.

XII. Provided always, and be it enacted, That no such Difference, Suit or Proceeding as aforesaid, nor any Difference, Dispute or Proceeding touching the Title to any Lands, Tenements or Hereditaments affected by this Act, shall impede or delay the said Commissioners in the Execution of this Act; but the Division and Allotments hereby directed to be made shall be proceeded in notwithstanding any such Difference, Suit or Proceeding.

Trial not to suspend the Execution of this Act.

XIII. Provided always, and be it further enacted, That if any of the Parties in any such Action to be brought as aforesaid shall die pending the same, such Action shall not abate by reason thereof, but shall be proceeded in, as if no such Death had happened; and any Person or Persons in whose Favour any such Determination as aforesaid shall have 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, Body or Bodies Politic or Corporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same, within the Time so limited as aforesaid, against such Person or Persons as 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 on the Heir or Heirs, or other Person or Persons who shall claim the Benefit

Provision in case of Death of Parties after or before Actions brought.

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.

For extinguishing or suspending Rights of Common before the Award.

XIV. And be it further enacted, That it shall be lawful for the said Commissioners, at any Time or Times before the Execution of their Award, to order and direct, by Notice under their Hands, to be for that Purpose given and affixed to the principal Doors of the respective Parish Churches of *Fundenhall* and *Ashwellthorpe* aforesaid, all and every or any Right or Rights whatsoever, in, over or upon the said Commons and Waste Grounds, or any Part thereof, to be suspended for and during such Time and Times as shall be expressed in such Notice; and all and every such Right and Rights, which the said Commissioners shall so order and direct to be extinguished or the Exercise thereof to be suspended as aforesaid, shall from the Time of affixing such Notice on the said Church Doors respectively, cease, determine and be extinguished, or the Exercise thereof shall be suspended accordingly; any Law, Usage or Custom to the contrary notwithstanding.

Turves, &c. not to be cut after Act passed.

XV. And be it further enacted, That if any Person or Persons shall after passing this Act, cut, dig, pare, grave, flay, take or carry away any Turves, Flags, Whins or Furze in, upon or from the said Commons or Waste Grounds, without or contrary to the Licence or Consent of the said Commissioners, first obtained in Writing for that Purpose, (which Licence the said Commissioners are hereby empowered to grant, under such Restrictions as they shall think proper to insert therein) then, and in every such Case, the said Commissioners, upon Proof thereof made before them, upon the Oath of One credible Witness, shall and they are hereby required, by Warrant under their Hands and Seals, directed to any Person or Persons whomsoever, to cause any Sum or Sums of Money, not exceeding Five Pounds, to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so offending, 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.

Application of Penalties.

For shortening the Boundary Fences against adjoining Parishes.

XVI. And whereas it may shorten the Boundary Fences between the Lands directed by this Act to be divided, allotted and inclosed, and the Lands lying in the Parish or Parishes adjoining thereto, if the said Commissioners were empowered to cause such Fences to be raised, in such Directions as they should think most proper and convenient, for shortening and making the same regular; be it therefore enacted, That 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 Parishes of *Fundenhall* and *Ashwellthorpe* or either of them, 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, and of the Owner or Owners of the Land upon which such

Such Fence or Fences shall be intended to be made, to set out, ascertain, and determine the Boundary Fences to be made between the Lands hereby directed to be divided and allotted, and the Lands lying in such adjoining Parish or Parishes, as they shall judge proper for the Purposes aforesaid; and after such Boundaries shall be so set out, ascertained, and determined, the same shall be fenced by such Person or Persons, in such Manner, and at such Time or Times as the said Commissioners shall direct, and shall forever thereafter be deemed and taken to be the Boundaries between the said Parishes of *Fundenhall* and *Ashwellthorpe*, and such adjoining Parish or Parishes; any Law, Usage or Custom to the contrary notwithstanding.

XVII. And be it further enacted, That all Encroachments which shall have been made within Twenty Years last past upon the Commons and Waste Grounds, by this Act directed to be divided and allotted, shall be deemed Part of the said Commons and Waste Grounds to be so divided and allotted; but no such Encroachments which shall have been made more than Twenty Years shall be liable to the Claim of any other Person against the present Possessor; and in case any Dispute shall arise touching any Encroachments, or the Extent thereof, such Dispute shall be determined by the said Commissioners.

Encroachments within Twenty Years, to be allotted beyond Twenty Years confirmed.

XVIII. Provided always, and be it enacted, That the Lands and Grounds comprized in any Encroachments which shall have been made within Twenty Years last past shall, without regard to the Value of any Improvements since made thereon, be allotted to the Person or Persons in Possession thereof, so far as he, she or they shall be entitled to any Allotment of sufficient Value by virtue of this Act, and shall desire such Encroachments to be so allotted, and shall signify such Desire in Writing to the said Commissioners at their First or Second Meeting to be holden in pursuance of this Act: and in that Case, the Value of such Encroachments shall, as Circumstances require, be deducted from or be deemed a Compensation for the Allotment or Allotments to which such Person or Persons shall be entitled under this Act; but if the Person or Persons in Possession of such Encroachments shall not be entitled to any Allotment of sufficient Value to admit of such Reduction for the Value of such Encroachments being made as aforesaid, then, and in either of those Cases, the whole or the Surplus Quantity, as the Case may be, of such Encroachments shall be sold by the said Commissioners in the Manner and subject to the Regulations and Directions prescribed by the said recited Act with respect to Sale of Land, and shall be conveyed by them in Fee Simple to any Person or Persons who shall become the Purchaser or Purchasers thereof; and the Money arising from such Sale or Sales shall be applied towards defraying the Expences of obtaining and executing this Act.

Encroachments to be allotted to Persons in Possession, if, &c. or to be sold.

XIX. Provided always, and be it further enacted, That in case any Surplus shall remain, after Payment of such Charges and Expences, then, and in such Case, such Surplus Money shall be divided and apportioned between the several Proprietors of, and Persons interested in the Lands hereby directed to be divided and inclosed, in such Shares as shall be in proportion to such their respective Property, Rights and Interests; and the respective Shares of such of them as shall be Tenants in Fee Simple of their respective Allotments, shall be paid to them respectively; and the Shares of such other Proprietors or Persons of and in such Surplus Money shall be applied and disposed of in Manner directed by the said recited Act,

Application of Surplus Money.

in case any Money is to be paid for the Purchase of any Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchase of other Lands, Tenements or Hereditaments to be settled to the same Uses.

Licensed
Encroach-
ments.

XX. Provided always, and be it further enacted, That nothing in this Act contained shall extend to prejudice or diminish the Right of any Person or Persons whomsoever to any Encroachments upon the said Commons and Waste Grounds, notwithstanding the same shall have been made within Twenty Years now last past, in case the same shall have been made by virtue of any Licence, Consent or Grant from the Lord or Lords of either of the Manors beforementioned, and which Licence, Consent or Grant shall, before the passing of this Act, have been entered or inrolled in the Court Books of one of the aforesaid Manors; and that no Person or Persons, who at the Time of the passing of this Act shall be in the Possession of any Encroachment heretofore made by virtue of any such Licence, Consent or Grant as aforesaid, shall at any Time hereafter be liable to the Suit, Claim or Interruption of any other Person or Persons whomsoever, on the Ground of such Encroachment having been heretofore Part of the said Commons and Waste Grounds: Provided always, that no Person or Persons possessing any Encroachment whatever, shall in respect thereof be entitled to any Allotment or Allotments out of the said Commons and Waste Grounds to be divided and allotted by virtue of this Act, if such Encroachments shall at any Time within Sixty Years now last past have been Part or Parcel of the said Commons and Waste Grounds: Provided always, that no such Licence, Consent or Grant shall, by virtue of any Thing in this Act contained, give or be construed to give to the Person or Persons who shall claim to be entitled to the Soil of the Commons and Waste Lands in which such last-mentioned Encroachments are respectively situate, any other or greater Right to the Soil than what such Person or Persons was or were possessed of or entitled to therein previous to the passing of this Act, but that the Rights to such Soil shall stand precisely the same as they stood at the Time of passing this Act.

Commission-
ers may stop
up old Roads
and Foot-
paths and
make new
ones.

XXI. And be it further enacted, That it shall be lawful for the said Commissioners, with the Concurrence and Order of Two Justices of the Peace for the said County of *Norfolk*, acting in and for the Division in which the Road or Roads, Footpath or Footpaths hereinafter mentioned shall be situated, and not interested in the Repair of such Road or Roads, Footpath or Footpaths, to stop up, and direct to be discontinued, any public or private Road or Roads, Footpath or Footpaths through any Part or Parts of the Lands and Grounds in the said respective Parishes of *Fundenhall* and *Ashwellthorpe*, which to the said Commissioners shall appear useless or unnecessary; and also to set out, and direct to be made, any other new public or private Road or Roads, Footpath or Footpaths in, over or upon any of the Lands or Grounds within the same Parishes respectively, as to them the said Commissioners shall appear necessary: 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 respective Parishes of *Fundenhall* and *Ashwellthorpe* shall be shut up or discontinued until the several Roads intended to be and

remain

remain public Highways within the same Parishes respectively 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; save that the present public Roads which shall be also set out by the said Commissioners shall be put in Repair by the Ways and Means prescribed previous to the passing of this Act.

XXII. And be it further enacted, That the said Commissioners shall set out and appoint One private Road, at least Twenty Feet wide, from the public Road across *Ashwellthorpe Common*, by the Side of the *Lizard Fence*, to *Fundenhall Wood*, for the Use of the Proprietor of the said Wood, and the Proprietors of Allotments on the South Side of the said private Road, without making any Deduction on account of such Road from any Allotment or Allotments to which such Proprietors shall be entitled under this Act.

Private
Road to Fun-
denhall
Wood.

XXIII. And be it further enacted, That the said Commissioners shall assign, set out and allot unto the Surveyors of the Highways in the respective Parishes of *Fundenhall* and *Ashwellthorpe* aforesaid, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided and allotted as the said Commissioners shall think necessary or proper, as and for public Watering-places for Cattle, and as and for public Sand, Gravel, Stone, Clay and Chalk Pits, and the same shall be fenced round, and such Fences maintained by such Person and Persons, and in such Manner as the said Commissioners shall in and by their Award direct and appoint; and the same 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 Parishes of *Fundenhall* and *Ashwellthorpe* respectively, and their Tenants, in such Manner and under such Rules and Regulations as the Lords and Ladies of the aforesaid Manors, the Rectors, Churchwardens and Overseers of the Poor, and the Surveyors of the Highways within the said Parishes respectively for the Time being, or the major Part of them shall order, direct and appoint and not otherwise; and the Feed and Herbage arising upon the last-mentioned Allotments shall be taken and disposed of by such Surveyor or Surveyors within the said respective Parishes for the Time being, for the Benefit of the respective Poor thereof.

Allotment
for public
Watering-
Places.

XXIV. And be it further enacted, That the said Commissioners shall assign and set out for the respective Lords and Ladies of the several Manors hereinbefore mentioned, or to any of them, and to the Lords and Ladies of any other Manor or Manors, being Owner or Owners of or entitled to the Soil of the said Commons and Waste Grounds, or any Part thereof, so much and such Part and Parts of the said Commons and Waste Grounds within the said respective Parishes of *Fundenhall* and *Ashwellthorpe*, hereby directed to be divided and allotted, as shall in the Judgment of the said Commissioners be equal in Value to One-eighteenth Part thereof, as a Compensation and Satisfaction for the Rights and Interests of the said respective Lords and Ladies in and to the Soil of the said Commons and Waste Grounds respectively; and when set out, the same shall be subdivided between and allotted to the said Lords and Ladies in proportion to their several and respective Rights and Interests therein, as the said Commissioners shall adjudge reasonable and proper.

Allotments
for Right of
Soil.

XXV. And

Allotment for
Firing for the
Occupiers of
Messuages,
&c. not ex-
ceeding the
yearly Value
of 8l. in Fu-
denhall.

XXV. And be it further enacted, That the said Commissioners shall in the next place, assign, set out and allot unto the Lords and Ladies of the aforesaid Manor or Manors, or of any other Manor or Manors in *Fundenball* aforesaid, the impropriate Rector of *Fundenball* aforesaid, and the Churchwardens and Overseers of the Poor of the said Parish for the Time being, upon the Trusts hereinafter mentioned, either together or in Two or more separate Allotments, such Part of the Commons and Waste Grounds lying in *Fundenball* aforesaid, hereby directed to be divided, allotted and inclosed, not exceeding One-thirtieth Part in Value of the said Commons and Waste Grounds, proper for cutting Turf or Flags, within the said Parish of *Fundenball*, for the Use and Benefit of the Inhabitants or Occupiers for the Time being, legally settled in the said Parish, not occupying Lands or Tenements of more than the yearly Value of Eight Pounds; the said Turf or Flags to be set out, cut and made by or under the Direction of the said Trustees, to or for the Use of each and every such Inhabitant or Occupier, under such Restrictions, Quantities and Proportions in every Year as shall be directed by the said Trustees or the major Part of them; and that the Fences to such Allotment or Allotments shall be for ever kept in Repair by the Proprietors and Owners of the adjoining Lands; and that it shall be lawful for the Lords and Ladies of the aforesaid Manor or Manors, and of any other Manor or Manors in *Fundenball* aforesaid, the impropriate Rector, and the Churchwardens and Overseers of the Poor of the said Parish of *Fundenball* for the Time being for ever, or the major Part of them, and they are hereby empowered and required from Time to Time, by Writing under their Hands and Seals, duly executed in the Presence of and to be attested by Two or more credible Witnesses, to lease or demise the Grass, Feed and Herbage, to grow, renew and arise upon the above-mentioned Allotment or Allotments, to any Person or Persons whomsoever, for any Term not exceeding Fourteen Years; so that in every such Lease there be reserved and made payable to the said Lords and Ladies, Rector, Churchwardens and Overseers for the Time being, or the major Part of them, by Two equal Payments in every Year, the best and most improved Yearly Rent or Rents that can be had or obtained for the same, without taking any Fine, Premium or Foregift, in consideration of granting such Lease or Leases; and so that in all such Leases there shall be contained the usual Covenants and Stipulations between the Lessors and Lessees, and such other Covenants and Stipulations as may be thought proper, and that such Security be given for the Performance of the same as the said Trustees, or the major Part of them, shall think proper to be inserted therein; and the Rents and Profits arising therefrom, shall from Time to Time be laid out in purchasing Fuel for Firing for the Poor of the said Parish of *Fundenball*, and such Fuel shall be distributed amongst the poor Inhabitants of the said Parish, who shall be legally settled therein, and who shall not occupy Lands or Tenements of more than the yearly Value of Eight Pounds, in such Proportions and Quantities, and at such Times in the Year as the said Trustees, or the major Part of them, shall think most proper; and in case there shall be more Money than shall be necessary to be expended for the Purpose aforesaid, then such Surplus Money or Rent shall be applied for the Relief and Benefit of the Poor belonging to the said Parish of *Fundenball*, in such Manner as the said Trustees, or the major Part of them, shall think proper; and the aforesaid Allotment or Allotments, when set out, shall be vested in the Lords and Ladies of the aforesaid Manors in *Fundenball*, the impropriate Rector, and the Churchwardens and Overseers

feers of the Poor of the said Parish of *Fundenhall* for the Time being for ever, upon the Trusts and for the Purposes aforesaid.

XXVI. And be it further enacted, That the said Commissioners shall, in the next place, assign, set out, and allot unto the Lords and Ladies of the aforesaid Manor in *Ashwellthorpe*, and the Lords and Ladies of any other Manor or Manors in *Ashwellthorpe* aforesaid, the Rector of the Rectory of *Ashwellthorpe* aforesaid and the Churchwardens and Overseers of the Poor of the said Parish for the Time being, upon the Trusts hereinafter mentioned, either together, or in Two or more separate Allotments, such Part of the Commons and Waste Grounds lying in *Ashwellthorpe* aforesaid, hereby directed to be divided, allotted and inclosed, not exceeding One-thirtieth Part of the Average Value of such Commons and Waste Grounds, (the Fences to which Allotment or Allotments shall be for ever thereafter kept in Repair by the Proprietors and Owners of the Lands adjoining thereto); and that it shall be lawful for the Lords and Ladies of the aforesaid Manor, and of any other Manor or Manors in *Ashwellthorpe* aforesaid, and the Rector of the said Rectory, and the Churchwardens and Overseers of the Poor of the said Parish for the Time being for ever, or the major Part of them, and they are hereby required and empowered from Time to Time, by Writing under their Hands and Seals, duly executed in the Presence of and to be attested by Two or more credible Witnesses, to lease or demise the last abovementioned Allotment or Allotments to any Person or Persons whomsoever, for any Term not exceeding Fourteen Years; so that in every such Lease or Leases there be reserved and made payable to the said Lords and Ladies, Rector, Churchwardens and Overseers for the Time being, or the major Part of them, by Two equal Payments in every Year, the best and most improved Yearly Rent or Rents that can be had or obtained for the same without taking any Fine, Premium or Foregift in Consideration of granting such Lease or Leases, and so that in all such Leases there shall be contained the usual Covenants and Stipulations between the Lessors and Lessees, and such other Covenants and Stipulations as may be thought proper; and that such Security be given for the Performance of the same as the said Trustees, or the major Part of them, shall think proper to be inserted therein; and the Rents and Profits arising therefrom shall from Time to Time be laid out in purchasing Fuel for Firing for the Poor of the said Parish of *Ashwellthorpe*; and such Fuel shall be distributed amongst the Inhabitants or Occupiers for the Time being legally settled in the said Parish, who shall not occupy Lands or Tenements of more than the Yearly Value of Eight Pounds, in such Proportions and Quantities, and at such Times in the Year as the said Trustees, or the major Part of them, shall think most proper; and in case there shall be more Money than shall be necessary to be expended for the Purposes aforesaid, then such Surplus Money, or Rent, shall be applied for the Relief and Benefit of the Poor belonging to the said Parish of *Ashwellthorpe*, in such Manner as the said Trustees, or the major Part of them, shall think proper; and the aforesaid Allotment or Allotments, when set out, shall be vested in the Lords and Ladies of the aforesaid Manors in *Ashwellthorpe*, the Rector, and the Churchwardens and Overseers of the Poor of the said Parish of *Ashwellthorpe* for the Time being for ever, upon the Trusts and for the Purposes aforesaid.

Allotments for Firing for the Occupiers of Messuages, &c. in *Ashwellthorpe*, not exceeding the Yearly Value of £8 per Annum.

Lord of
Manors and
Rectors to
act by Proxy.

XXVII. Provided also, and be it further enacted, That it shall be lawful for the Lords and Ladies of the aforesaid Manors, and the Rectors of *Ashwellthorpe* and *Fundenball* aforesaid for the Time being respectively, to act in Execution of the Trusts hereby reposed in them as aforesaid, by his, her or their Agents or Proxies respectively, such Agents or Proxies being appointed by Writing under the respective Hands of the Lords and Ladies of the said Manors, and the Rectors of the said Parishes respectively, and producing their Appointment or Appointments at the Time of their acting by virtue thereof; but no Person shall act as Agent or Proxy for more than One Trustee at the same Time.

Allotment to
the Value of
Half an Acre
to each
Commonable
Messuage.

XXVIII. And be it further enacted, That the said Commissioners shall, in the next place, assign, set out and allot unto the several Owners of Messuages or Cottages, which have been erected Forty Years, and in respect of which a Right or Rights of Common upon the said Commons and Waste Grounds hath or have been exercised during that Time without lawful Interruption, or to such of the said Owners as, on preferring their respective Claims in the Manner prescribed by the said recited Act in that Behalf, shall have and be deemed to have a Right or Rights of Common over and upon the same Commons and Waste Grounds, in respect of such Messuages or Cottages, such Part and Parts of the Lands and Grounds, hereby directed to be divided and allotted, as the said Commissioners shall in their Judgment deem and consider to be equal in Value *per Annum* to the annual average Value of Half an Acre of the said Commons and Waste Grounds lying within the Parish in which such Common Right, Messuage or Cottage respectively shall be situated, to and for each and every such Common Right, Messuage or Cottage respectively, over and above the Allotments which the Owners of such Messuages and Cottages respectively may in respect thereof be otherwise entitled.

Allotment of
the Residue.

XXIX. And be it further enacted, That the said Commissioners shall then assign, set out and allot all the Residue and Remainder of the Lands and Grounds within the said Parishes of *Fundenball* and *Ashwellthorpe*, hereby directed to be divided, allotted and inclosed, unto and amongst the several Proprietors thereof, and Persons, Bodies Politic, Corporate and Collegiate interested therein, in such Shares and Proportions as the said Commissioners shall adjudge and determine to be proportional to the Value of, and a full Satisfaction and Compensation to them respectively for their respective Parts or Shares of such Lands and Grounds, and their respective Rights or Interests therein: Provided always, that the Allotment or Allotments to be made to the said *Robert Wilson*, his Heirs or Assigns, by virtue of this Act, shall be set out and made in such Situation or Situations as he or they, by Writing to be delivered to the said Commissioners before setting out the said Allotments, shall request in that Behalf, but so as not to interfere with the general Interest or Convenience of any other Person or Persons interested in the

The Allotments to
Robert Wilson, Esquire,
to be made
where he shall
request.

The Common adjoining the
Yards, &c.
of Mr. Thomas Utting
to be allotted
to him.

said Inclosure; and also, that the Common or Waste lying on the East Side of the Parish of *Ashwellthorpe* aforesaid, and abutting on the Yards and Meadows of the said *Thomas Utting*, shall be allotted to the said *Thomas Utting*, his Heirs or Assigns, as Part of the Allotments he may be entitled to out of the Lands and Grounds hereby directed to be divided and allotted, provided such Allotment do not interfere with the

the general Convenience, or be prejudicial to the Rights of any other Person or Persons interested in the said Inclosure; and further, that the Allotment for Firing in *Fundenhall* aforesaid, shall be set out and made as remote from the Messuage belonging to the said *Joseph Osgood Freame*, as the Nature of the Commons in the said Parish will conveniently and without Prejudice to the other Proprietors admit of.

XXX. And be it further enacted, That the Lands and Grounds which shall be set out and allotted unto and for the Improprate Rector and Vicar of *Fundenhall*, the Rector of *Ashwellthorpe*, and the Master and Fellows of *Christ's College, Cambridge*, for the Time being, in respect to their Glebes, and to the several Persons hereinbefore mentioned as Trustees for the Purposes aforesaid, shall be inclosed and fenced on the outward Boundaries thereof respectively, and proper Gates and Posts placed therein by such Persons and in such Manner as the said Commissioners shall direct, at the Expence of all Persons entitled to Allotments by virtue of this Act; and that the said Fences shall thereafter be maintained and supported by such Persons, and in such Manner as the said Commissioners shall, in and by their Award, order and direct (except the Fences to the aforesaid Allotments for Firing, which are to be repaired by the Persons hereinbefore mentioned): Provided always, that convenient Gaps and Openings shall be left in the Fences and Inclosures to be made in pursuance of this Act, for the Space of Six Calendar Months next after the Execution of the said Award, for the Passage of Cattle, Carts and Carriages into and through the same, unless the several Parties interested therein shall agree that the same may be sooner stopped up and inclosed.

Rectorial and Trust-Allotments to be ring-fenced at the Expence of the other Proprietors.

For leaving Gaps.

XXXI. And be it further enacted, That in case any Proprietor or Proprietors of any Lands or other Hereditaments hereby, or by the said recited Act, authorized to be divided, allotted or exchanged, shall hold their respective Lands or Hereditaments for different Estates, or by different Tenures, the said Commissioners shall ascertain or distinguish the Lands and other Hereditaments held for each of such Estates, and by each of such Tenures respectively, and shall also set out and distinguish the different Allotments or other Hereditaments to be accepted and taken as an Equivalent in respect of each of them; and the said Commissioners shall, and they are hereby authorized and required to set forth and declare in and by their said Award, in Right of what Estates in particular such Allotments shall have been respectively made, and therein also separately to describe and ascertain the Situation of every such Allotment.

Distinct Allotments to be made for Lands holden by different Titles and Tenures.

XXXII. And be it further enacted, That when the Proprietor or Proprietors of any Lands or other Hereditaments, which shall be allotted, divided, or exchanged by virtue of this or the said recited Act, shall hold his, her or their Lands and Hereditaments for different Estates, or by different Tenures, and where from the Want of the necessary Information before the said Commissioners, or from any other cause, they shall have omitted in their Award to distinguish and ascertain the Lands or other Hereditaments holden for each of such Estates, and by each of such Tenures, and to set out and award several and distinct Allotments

When Commissioners shall not have made distinct Allotments of Lands holden by different Titles they may declare the same by Deed after

making their
Award.

Allotments for such respective Lands or other Hereditaments as hereinbefore is required; and within Twelve Calendar Months after the making the said Award, Request shall be made to the said Commissioners by any Person or Persons interested, by Writing under his, her or their Hand or Hands, to have such Omission supplied by a separate Instrument, then, and in every such Case, the said Commissioners are hereby authorized to do every Thing necessary for supplying such Omission, and so far as that Purpose shall require to examine Witnesses, and in every other respect to proceed and act as if their Award had not been made; and when they shall have obtained what they shall think sufficient Information, they are hereby also authorized by any Deed under their Hands and Seals, to distinguish and ascertain the Difference of such Estates and Tenures respectively, and accordingly to make distinct and several Allotments in the same Manner as is hereby required, where such Discrimination should be contained in the said Award; and every such separate Instrument shall be deposited in the same Place, and Evidence thereof shall be given in the same Manner, as by the said recited Act, and this Act, or either of them, is directed concerning the said Award; and all reasonable Expences incurred in or about such separate Instrument as aforesaid, shall be payable by the Person or Persons who shall have so requested the said Commissioners to make and execute the same, or by his, her or their Heirs, Executors or Administrators; and every such separate Instrument shall, from and immediately after the due Execution thereof by the said Commissioners, have the same Effect to all Intents and Purposes as if the Contents thereof had been inserted or contained in their said Award; and a true Copy thereof shall be delivered to the Person or Persons upon whose Request any such Omission shall have been supplied, or to the Person or Persons to whom the Custody of the Deeds and Writings, concerning the Title of the Premises in Question, shall in the Opinion of the said Commissioners, most properly belong.

Allotments to
be marked
upon the
Plan, and
shewn to the
Proprietors.

XXXIII. And be it further enacted, That when and as soon as the said Commissioners shall have ascertained the respective Rights and Interests of the said Proprietors in the Lands and Grounds to be divided and allotted by virtue of this Act, and also the respective Shares and Proportions by them proposed to be allotted to such Proprietors respectively in Lieu thereof, they, the said Commissioners, shall give Notice in Manner aforesaid of some convenient Time and Place when and where the said Proprietors may be informed of such proposed Allotments, and see the Scheme thereof set out and delineated upon a Map or Plan thereof, to be produced for their Inspection; and as some Proprietors may, upon Inspection of such Map, be dissatisfied with the proposed Allotments, the said Commissioners shall at such Time and Place as last aforesaid, or some other Time and Place to be appointed for that Purpose, receive Statements in Writing of the Objections against such Allotments, and shall forthwith, or as soon after as conveniently can be, determine the same, and their Determination as to such Allotments shall be final and conclusive: Provided always, that it shall be lawful for any Person or Persons, who shall be entitled to any Allotment or Allotments under or by virtue of this Act, to give, grant, bargain, sell, demise, mortgage, limit, convey and assure the same for all or any Part of his, her or their Estate or Interest therein, or Right thereto, at any Time before the Execution

Proprietors
may sell or
mortgage
their Allot-
ment before
the Execu-

Execution of the Award of the said Commissioners; and every such Gift, Grant, Bargain, Sale, Demise, Mortgage, Limitation, Conveyance, and Assurance shall be of the same Force and Validity as if made after the Execution of the said Award; and also it shall be lawful for any of the Owners of any Common Rights upon the Lands and Grounds hereby directed to be divided and inclosed, to sell and dispose of the same, or of the Allotment or Allotments to be made and set out in respect thereof by virtue of this Act, separate and distinct from the Estate in Right of which they, he or she are or is entitled thereto, in the same Manner as they, he or she might have done at any Time after the Execution of the said Award.

tion of the Award, and their Rights of Common separate from their other Property.

XXXIV. And be it further enacted, That all the Lands and Grounds which shall be allotted by virtue of the said recited Act or of this Act, to or with any Person or Persons for or in respect of any Messuages, Cottages, Lands and Grounds holden of any Manor or Manors by Copy of Court-Roll, or for or in respect of any Leasehold Messuages, Lands or Tenements, or for or in respect of any Common or Shackage, or any other Right or Interest appurtenant or appendant to any such Copyhold or Leasehold Premises, shall, from and after the Execution of the said Award, be deemed and taken to be Copyhold and Leasehold, and shall be held as such by and under the same Tenures, Rents, Payments, Fines, Customs and Services as the Copyhold or Leasehold Messuages or Cottages, Lands or Tenements respectively, for or in respect whereof such Allotments shall be made, are now holden; and that all and every Person and Persons to or with whom such Copyhold Lands and Premises shall be allotted as aforesaid, shall within Six Calendar Months next after the Execution of the said Award, be admitted Tenant or Tenants to the same without paying any Fine or other Charge to the Lord or Lords, Lady or Ladies, or to the Steward or Stewards of the said Manor or Manors (save and except for the Stamp Duties and Parchment requisite to be used for the Copies of such Admissions respectively, and such reasonable Fees to the respective Steward or Stewards of the said Manor or Manors as the said Commissioners shall by their said Award, or any Writing under their Hands, order and direct); but in case any Person or Persons to whom such Lands and Premises shall be allotted shall die, without Admission, within the said Six Calendar Months, then the customary Fines and other Payments shall be due and payable on the Admission of the Person or Persons entitled to such Lands and Premises; and after every such first Admission, the Copyhold Lands and Premises so to be allotted as aforesaid shall, at all Times thereafter, be held under and subject to the same Tenures, Fines and other Payments as the present Copyhold Messuages, Cottages, Lands or Tenements, in respect whereof such Lands and Premises shall be allotted, are now held under and subject to; and the said Commissioners shall by their said Award determine, describe and abut the Messuages, Buildings, Lands and Grounds respectively which are to be and remain Copyhold or Leasehold; and all other Lands and Grounds to be allotted by virtue of this Act (except what shall be so ascertained by the said Commissioners to be Copyhold or Leasehold) shall from thenceforth be deemed, taken and enjoyed as Freehold Lands and Grounds, subject nevertheless to such free Rents or Services as are now payable out of the respective Messuages, Buildings, Lands, Tenements or Hereditaments, for or in respect whereof the same shall or may be allotted.

Allotments to be of the same Tenure as the Hereditaments for which they are allotted.

For making
Exchanges.

XXXV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot and award any Messuages, Lands Tenements or Hereditaments whatsoever, within the said Parishes of *Fundenhall* and *Ashwellthorpe*, or either of them, in Lieu of and in Exchange for any other Messuages, Lands, Tenements or Hereditaments whatsoever within the said Parishes, or either of them, or within any adjoining Parish, Manor, Township, Hamlet or Place: Provided, that all such Exchanges be ascertained and made by the Award of the said Commissioners, or by some Deed or Deeds to be executed by the said Commissioners before the Date of their said Award, and which shall be set forth or referred to in their said Award, and be made with the Consent of the Proprietor or Proprietors of the Messuages, Lands, Tenements or Hereditaments which shall be so exchanged, whether such Proprietor or Proprietors shall be a Body or Bodies Politic, Corporate or Collegiate, or a Tenant or Tenants for Life or Lives, or for Years determinable on any Life or Lives, or for any Estate of Inheritance less than an Estate in Fee Simple, or with the Consent of the Guardians, Trustees, Feoffees for Charitable or other Uses, Husbands, Committees or Attornies of or for any such 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 of any such Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and that all such Exchanges of any Lands, Tenements or Hereditaments, held in Right of any Church, Chapel or other Ecclesiastical Benefice, be also made with the Consent in Writing of the Lord Bishop of the Diocese in which such last-mentioned Hereditaments shall be situate, and of the Patron of such Church, Chapel or other Ecclesiastical Benefice for the Time being respectively, and to be testified in like Manner; and all Exchanges so made shall, as well with respect to the Hereditaments in the Parishes of *Fundenhall* and *Ashwellthorpe* aforesaid, as to the Hereditaments in any adjoining Parish, Manor, Township, Hamlet or Place, be good, valid and effectual in the Law to all Intents and Purposes whatsoever.

Commis-
sioners may
make Allot-
ments in
Severalty to
joint Te-
nants, &c.

XXXVI. And whereas some of the Proprietors of Messuages, Cottages, Lands, Tenements or Hereditaments in the said Parishes of *Fundenhall* and *Ashwellthorpe*, or one of them, may be seised thereof or entitled thereto in joint Tenancy, or as Coparceners, or Tenants in Common, and cannot by reason of Infancy, Settlement, or Absence beyond Seas, make an effectual Division and Partition thereof; be it therefore further enacted, That it shall be lawful for the said Commissioners, upon the Request in Writing of such joint Tenants or Coparceners, or Tenants in Common, or any of them, or of the Husbands, Guardians, Trustees, Committees or Attornies of such as are under Coverture, Minors, Lunatics, or under any other Incapacity as aforesaid, or absent beyond Seas, to make Partition and Division of all or any of the Messuages, Cottages, Lands, Tenements and Hereditaments in *Fundenhall* and *Ashwellthorpe*, or either of them, so held in joint Tenancy, Coparcenary, or Tenancy in Common, (as well of those which are not subject to Inclosure under this Act, as of those which are) and also of all or any Part or Parts of the Lands and Grounds to be set out or allotted under this Act, between such Proprietors so entitled as
joint

joint Tenants, Coparceners or Tenants in Common, and to allot the same accordingly to such Owners and Proprietors in Severalty; and from and immediately after the said Partitions or Divisions and Allotments respectively in Severalty shall be so made and declared, the same shall be holden and enjoyed by the Person or Persons to whom the same shall be allotted in Severalty, in such and the same Manner, and subject to such and the same Uses, as the undivided Parts or Shares of such Messuages, Cottages, Lands, Tenements and Hereditaments, and Allotments of Common or Waste would have been held, in case such Partition, Division and Allotment in Severalty had not been made.

XXXVII. And be it further enacted, That every Tenant and Occupier under any Lease or Agreement for any Term of Years of any of the Lands or Grounds which shall be allotted or exchanged by virtue of this Act, shall, immediately after the Execution of the said Award, or within such future Time as the said Commissioners shall appoint, and whereof Notice in Writing shall be given for that Purpose, give and resign up the full and peaceable Possession of such allotted or exchanged Lands to the Person or Persons to whom the same shall be respectively allotted; but the Tenants or Occupiers of such allotted or exchanged Lands shall receive from the respective Owners and Proprietors thereof such Satisfaction as the said Commissioners shall ascertain, order, direct or appoint to be paid to such Tenants respectively, as an Equivalent for the Loss or Losses they shall respectively sustain thereby; and if the Money, so to be ascertained as aforesaid, shall not be paid to the Person or Persons entitled to receive the same within Ten Days after Demand made thereof, it shall and may be lawful to and for the said Commissioners, and they are hereby required to raise and levy the same for the Use and Benefit of the Person or Persons entitled thereto, by such Ways and Means as the Costs, Charges and Expences of obtaining and executing this Act can or may be raised and levied: Provided always, that nothing in this Act contained shall vacate or make void the Lease or Leases of any Lands which are wholly situate in any Parish or Place adjoining to the said Parishes of *Fundenhall* and *Ashwellthorpe*, or either of them.

XXXVIII. And be it further enacted, That in all Cases where an Allotment or Allotments of any Part or Parts of the said Commons and Waste Lands shall be made, for or in respect of the Right or Rights of Common belonging to any Messuages, Cottages, Lands and Hereditaments within the said Parishes of *Fundenhall* and *Ashwellthorpe*, or either of them, holden by any Tenant or Occupier for a Term of Years by virtue of any Lease or Agreement, and such Tenant or Occupier do not or shall not come to an Agreement with the Person or Persons to whom such Allotment or Allotments shall be made, for the Use and Occupation thereof, such Tenant or Occupier shall not be entitled to enter upon, occupy or hold the said Allotment or Allotments, but shall nevertheless have and receive from the Owner or Owners thereof such an Abatement from the yearly Rent or Rents reserved and made payable in and by such Lease and Agreement, for the Remainder of the Term or Terms then to come therein, as the said Commissioners shall adjudge to be a reasonable Compensation to him or her for the Right or Rights of Common which hath or have been accustomed to be used and exercised by such Tenant or Occupier, and which shall be extinguished by this Act: Provided always, that nothing in this

Wills and
Settlements
not to be
affected.

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

Course of
Husbandry.

XXXIX. And be it further enacted, That from and after the passing of this Act, until the Execution of the Award of the said Commissioners, no Part of the Meadow or Pasture Grounds hereby directed to be divided, allotted and inclosed, shall be ploughed up or converted into Tillage without the Consent of the said Commissioners first had and obtained in Writing for that Purpose; and that all the Arable Lands hereby directed to be divided and allotted shall, during that Time, be subject and liable to such Directions and Regulations as the said Commissioners shall, from Time to Time, by Writing under their Hands, appoint, as well with regard to the stocking as to the ploughing, folding, trilling, sowing and laying down the same; and that it shall be lawful for the said Commissioners to order and direct such Sum or Sums of Money in respect thereof, to be paid by any Person or Persons interested in the said Arable Lands, or any Part thereof, their or any of their Tenants, to any Person or Persons in like Manner interested therein, or his, her or their Tenants, as they the said Commissioners shall think reasonable; and in case any Person or Persons who shall be directed to pay any Sum or Sums of Money on any of the Accounts aforesaid, 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 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, are directed by the said recited Act to be raised and levied.

Fences to be
made where
Sheep are
kept in the
Inclosures.

XL. And be it further enacted, That no Cattle, Sheep or Lambs shall be kept in any of the Allotments to be made by virtue of this Act, at any Time before nor until the Expiration of Seven Years after the Execution of the Award of the said Commissioners, unless the Person or Persons so keeping the same shall first, at his, her or their Expence, make and maintain a Fence sufficient to guard the young Quick Fences round such Allotments from being cropped, hurt or damaged by such Cattle, Sheep or Lambs, whether such young Quick Fences be planted or set by the Owner or Owners, Occupier or Occupiers of such Allotment or Allotments as aforesaid, or by the Owners or Occupiers of the Allotment or Allotments adjoining thereto; nor shall any Person or Persons wilfully turn or put, or cause to be turned or put any Lambs, Sheep, Beasts or Cattle in any of the Lanes, Ways or Roads on either Side whereof any new growing Fence shall be planted.

XLI. And

XLI. And be it further enacted, That the Costs, Charges and Expences of inclosing the Allotment or Allotments, which shall by virtue of this Act be made to the Lord or Lords, Lady or Ladies of the aforesaid several Manors, the Impropiator Rector and the Churchwardens and Overseers of the Poor of the said Parishes of *Fundenhall* and *Ashwellthorpe* in Trust as aforesaid, and for inclosing the Allotment or Allotments hereby directed to be made to the Surveyors of the Highways within the said Parishes of *Fundenhall* and *Ashwellthorpe*, and all the Costs and Charges incident to and attending the obtaining and passing this Act, and of surveying, admeasuring, planning, valuing, dividing and allotting the Lands and Premises hereby directed to be 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 Expences of the several Persons to be employed by the said Commissioners in and about the Premises, and all the Expences of forming, completing and repairing the new public Carriage Roads and Highways, to be set out and appointed by the said Commissioners, within the said Parishes of *Fundenhall* and *Ashwellthorpe*, and all other Expences of carrying the said recited Act and this Act into Execution, shall be borne, defrayed and paid by the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act, (save and except the said Rectors, and Vicar, and their Successors, Rectors and Vicar of *Fundenhall* and *Ashwellthorpe* aforesaid, for or in respect of any Allotment or Allotments to be made to them in Right of the said Rectories and Vicarage, and also the said Master and Fellows of *Christ's College*, for or in respect of any Allotments to be made to them, and also save and except the Lord or Lords, Lady or Ladies of the said several Manors, the Rectors, and the Churchwardens and Overseers of the Poor, and the Surveyors of the Highways of the said Parishes for the Time being, for or in respect of any Allotment or Allotments hereby directed to be made to them in Trust as aforesaid) in such Shares and Proportions, at such Time or Times, either before or after the Execution of the Award, and to such Person or Persons, as the said Commissioners shall appoint.

Directions
for defraying
the Expences
of this Act.

XLII. And be it further enacted, That all Costs, Charges and Expences attending any Exchange, Partition or Division, or any Agreement relating thereto, which shall be made under or by virtue of the said recited Act or of this Act, shall be borne and defrayed by the several Parties making or interested in any such Exchange, Partition or Division, in such Manner and Proportions as the said Commissioners shall, by their said Award, or any other Writing under their Hands, order and direct.

How Ex-
pences of
Exchanges,
&c. are to be
paid.

XLIII. Provided always, and be it further enacted, That when and so often as it shall 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 defraying any Share or Shares of the Costs, Charges and Expences of obtaining and executing this Act, then, and in every such Case, such Copyhold Premises shall be surrendered to the Use of the Person or Persons who shall advance and lend such Sum or Sums of Money, and his, her or their Heirs or Assigns, according to the 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.

Directions
for charging
Copyhold
Land with
Expences.

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

XLIV. And be it further enacted, That once at least in every Year during the Execution of this Act (such Year to be computed from the Day of passing thereof) the said Commissioners shall and they are hereby required to make a true and just Statement or Account of all Monies 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 thereto, shall be by them laid before any One or more of His Majesty's Justices of the Peace for the said County of *Norfolk*, to be by him or them examined and balanced; and such Balance shall be by such Justice or Justices stated in the Book of Accounts to be kept in the Office of the Clerk of the said Commissioners; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice or Justices.

Money advanced by Proprietors to be repaid with Interest.

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

Proprietors and Agents to pay their own Expences.

XLVI. Provided also, and be it further enacted, That the said Proprietors, their Attornies and Agents, shall pay their own Expences when they or any of them shall attend the said Commissioners at any of their Meetings to be held in pursuance of the said recited Act or of this Act.

Award to be made and attested Copies deposited.

XLVII. And be it further enacted, That as soon as conveniently can be, after the Division and Allotment of the Lands and Grounds hereby directed to be divided and allotted shall be finished, pursuant to the Directions of this and the said recited Act, the said Commissioners shall form and draw up, or cause to be formed and drawn up, an Award in Writing which shall express the Quantity of Acres, Roods and Perches in Statute Measure contained in the said Lands and Grounds, and the Quantity of each and every Part and Parcel thereof, which shall be so allotted, assigned or exchanged, and the Situations and Descriptions of the same respectively; and shall also contain a Description of the Roads, Ways, Footpaths, Water-courses, Watering-places, Quarries, Bridges, Fences and Land-marks, set out and appointed by the said Commissioners as aforesaid, and all such other Rules, Orders, Agreements, Regulations, Directions and Determinations as the said Commissioners shall think necessary, proper or beneficial; which said Award, fairly engrossed or written on Parchment, with a reduced Map or Plan of the said Parishes of *Fundenball* and *Ashwellthorpe* thereto annexed, shall be signed by the said Commissioners, and Copies of the said Award, or so much thereof as shall relate to each of the aforesaid Parishes of *Fundenball* and *Ashwellthorpe* respectively, written on Parchment, examined and attested by the said Commissioners to be a true Copy of the same Award, so far as the same relates to each of the aforesaid Parishes, with a reduced Map or Plan of such of the aforesaid Parishes, to which such Copies or Parts thereof shall respectively relate, to be annexed, shall within Two Calendar Months next, after the Execution of the said Award, be deposited and kept as hereinafter mentioned; (that is to say), the Copy or so much thereof as shall

shall relate to the said Parish of *Fundenhall*, with the Map thereof annexed, shall be deposited and kept in the Parish Church of *Fundenhall* aforesaid, for the Inspection of the several Persons interested therein; and the Copy, or so much thereof as shall relate to the said Parish of *Ashwellthorpe*, with the Map thereof annexed, shall be deposited and kept in the Parish Church of *Ashwellthorpe* aforesaid, for the Inspection of the several Persons interested therein; and the said Award, with such reduced Map as aforesaid, shall within Twelve Calendar Months next after the Execution thereof, be deposited with the Clerk of the Peace for the said County of *Norfolk*, so that Recourse may be had thereto by any Person or Persons interested in the said Premises, for the Reception whereof the Fee of Four Pounds and Four 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 and Copies thereof, or any Part thereof, attested by the said Clerk of the Peace or his Deputy, for which Copies no more shall be paid than Three-pence *per* Sheet, each Sheet containing Seventy-two Words, shall from Time to Time and at all Times thereafter, as well as the Copies of the aforesaid Award, or any Part thereof, to be attested by the said Commissioners as aforesaid, be admitted and allowed as legal Evidence of the Matters and Things therein contained; and the said Award, and the several Allotments, Partitions, Orders, Directions, Matters and Things therein contained shall be, and are hereby declared to be binding and conclusive unto and upon all and every Person and Persons interested in and entitled unto the several and respective Premises so to be divided and allotted as aforesaid, or whose Rights and Interests are meant or intended to be hereby concluded or affected.

XLVIII. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done in pursuance of this or the said recited Act, (other than and except such Orders or Determinations of the said Commissioners as are herein or by the said recited Act directed to be final and conclusive, and except in such Cases as are herein directed or authorized to be tried, settled or determined by an Issue at Law as hereinbefore 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 held 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, Fourteen Days' Notice in Writing of such Appeal and of the Matter thereof; and the Justices (not interested in the Premises), in their said General Quarter Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Court of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious

Persons aggrieved may appeal to the Quarter Sessions.

vexatious or without sufficient Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Saving the
Rights to
Lords of the
Manors.

XLIX. Provided always, and be it further enacted, That nothing in this Act contained shall prejudice, lessen or defeat the Right, Title or Interest of the Lord or Lords, Lady or Ladies of the Manor or Manors hereinbefore mentioned for the Time being, or of any other Manor or Manors within the said Parishes of *Fundenhall* and *Ashwellthorpe* or either of them, of, in or to the Seignories and Royalties, Rights or Services incident or belonging to the said Manor or Manors (save and except any Right to the Soil, or any Right of Sheep-walk, Common or Shackage in and over the Lands and Grounds hereby directed to be divided and allotted), but that the Lords and Ladies of the said several Manors for the Time being shall and may, from Time to Time and at all Times hereafter, hold and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, Mines, Goods and Chattels of Felons, Fugitives, Felons of themselves, Persons put in Exigent, Deodands, Waifs, Estrays, Forfeitures, Franchises, Privileges, and all other Royalties, Jurisdictions and Pre-eminences whatsoever to the said several Manors, or to the respective Lords or Ladies thereof, incident, appendant, belonging or appertaining, (save and except as aforesaid) in as full, ample and beneficial a Manner as they respectively could or might have held and enjoyed the same in case this Act had not been made.

General
Saving.

L. Saving always to the King's most Excellent Majesty, his Heirs and Successors, and to all and every Person and Persons, Body or Bodies Politic and Corporate, his, her or 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, for and in respect of such Rights and Interests as are hereby meant and intended to be destroyed and extinguished, and all Persons respectively claiming under them, or in Remainder after them,) all such Estate, Right, Title and Interest as they or any of them had and enjoyed, of, in, to or out of the Lands and Grounds hereby directed to be divided and allotted before the passing of this Act, or which they, every or any of them might, could or ought to have held and enjoyed in case this Act had not been passed.

Public Act.

LI. 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^d ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1811.