



ANNO QUINQUAGESIMO PRIMO

GEORGI III. REGIS.

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Cap. 137.

An Act for inclosing Lands in the Parishes of *Elmswell*,
Great Ashfield, *Hunston*, and *Norton*, in the County
of *Suffolk*. [31st May 1811.]

WHEREAS there is within the said Parishes of *Elmswell*, *Great Ashfield*, *Hunston*, and *Norton*, in the County of *Suffolk*, a certain Green, Common, or Waste Ground called *Butenhaugh Green*, containing by Estimation Six hundred Acres; and there are also several other small Greens, Commons, or Waste Grounds, within the said several Parishes: And whereas *Euphemia Gifford* Spinster, is Lady of the Manor of *Elmswell*; the Right Honourable *Edward Lord Thurlow* is Lord of the Manor of *Great Ashfield*; *Rebecca Clough* Spinster, is Lady of the Manor of *Abriwicks* in *Great Ashfield*; the Reverend *Henry Heigham* Clerk, is Lord of the Manor of *Hunston*; the Reverend *Henry Patten* is Lord of the Manor of *Norton Hall*; and *Robert Braddock* Gentleman, is Lord of the Manor of *Littlehaugh* in *Norton*; and severally claim to be entitled to, or interested in, the Soil of the said Green, and other Commons and Waste Grounds, or some Parts thereof: And whereas the Reverend *Joseph Thomas Lawton* is the Patron and Incumbent of the Rectory and Parish Church of *Elmswell* aforesaid, and the said *Edward Lord Thurlow* is the Impropiator of the Improprate Rectory of *Great Ashfield* aforesaid, and intituled to the Great and Small Tythes arising within the said Parish of *Great Ashfield*; and the said *Henry Heigham* is Impropiator of the Improprate Rectory of *Hunston*, and as such intituled to the Great and Small Tythes arising within the same Parish; and the Reverend *William Clerke* is Rector of the Rectory and Parish Church of *Norton* aforesaid: And whereas the said *Edward Lord Thurlow*, *Henry Heigham*, *Henry Patten*, *James Mingay* Esquire, *Thomas Norgate*

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Norgate M. D. and divers other Persons respectively are Owners and Proprietors of Messuages, Cottages, Lands, and Hereditaments, situate, lying, and being within the said Parishes of *Elmswell, Great Ashfield, Hunston, and Norton*: 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 the said Green or Common called *Buttenhaugh Green*, and the several other small Greens, Commons, or Waste Grounds yield but little Profit to the several Persons interested therein or entitled to the Feed thereof, and they are desirous that the same, together with the Open and Common Field Land lying in the said Parishes, should be divided, allotted, and inclosed; but such Division, Allotment, and Inclosure cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Josselyn* the younger of *Belstead*, in the County of *Suffolk*, Gentleman, and *John Edwards* of *Brämsford*, in the same County, Gentleman, shall be, and they are hereby appointed Commissioners for setting out, dividing, and allotting the said Commons, Wastes, and other Commonable Lands, and for carrying this Act into Execution, subject to the Rules, Orders, and Directions herein-after contained, and also with, under, and subject to, such of the Powers and Provisions of the said recited Act, as are not varied or altered, or otherwise provided for by this Act.

Commissioners.

New Commissioners.

II. And be it further enacted, That if either of the said Commissioners, or any Commissioner to be appointed as herein-after mentioned, shall die, refuse, or become incapable to act in the Execution of the Powers hereby and by the said recited Act vested in them before the Execution of the Award to be made by the said Commissioners, it shall be lawful for the major Part in Value, such Value to be ascertained by the Land Tax Assessment then last made of the Proprietors of Lands, Tenements, or Hereditaments, within the said Parishes of *Elmswell, Great Ashfield, Hunston, and Norton*, or their respective Agents or Attornies duly authorized by Writing under their Hands, present at any such Meeting as herein-after mentioned, to appoint any other Person, (not interested in the said intended Division and Inclosure), to be a Commissioner in the room of every such Commissioner so dying, refusing, or becoming incapable to act; and every Commissioner so to be appointed as aforesaid, shall (after taking the Oath prescribed in that Behalf) have the like Power and Authority for carrying this and the said Act into Execution, as if he had been originally nominated a Commissioner in and by this Act.

Umpire.

III. And for obviating any Inconvenience which may happen to arise by Difference of Opinion between the said Commissioners for the Time being, touching any of the Matters and Things to be done by them in pursuance of this or the said recited Act; be it further enacted, That in case any such Difference of Opinion shall arise, it shall be lawful for the said Commissioners, and they are hereby required by Writing under their Hands, to nominate and appoint from Time to Time, as there shall be Occasion, some fit and proper Person, not interested in the said intended Division,

Allotment, and Inclosure, to be an Umpire, touching all Matters which may be in Dispute between the said Commissioners, and the Judgement and Determination of such Umpire in the Premises so to be submitted to him, shall be deemed and taken to be the Judgement and Determination of the said Commissioners and such Umpire, in order to enable him the better to make such Judgement and Determination, shall have, and he is hereby vested with such and the same Powers and Authorities for summoning and compelling the Attendance of Witnesses, and for examining them upon Oath, as are vested in the said Commissioners.

IV. Provided always, and be it further enacted, That no Person shall be capable of acting as an Umpire in the Execution of this or the said recited Act, until he shall have taken and subscribed an Oath in the Words or to the Effect following; (that is to say),

‘ I Do swear, that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgement, execute and perform the several Powers and Authorities vested and reposed in me as an Umpire, by virtue of an Act passed in the Fifty-first Year of the Reign of His Majesty King George the Third, intituled [*here insert the Title of this Act*], according to Equity and good Conscience, and without Favour, Affection, Prejudice, or Partiality to any Person or Persons whomsoever.

Umpire's
Oath.

‘ So help me GOD ’

Which Oath it shall be lawful for the said Commissioners, or either of them, to administer; and the said Oath so taken and subscribed by such Umpire shall be annexed to and inrolled with the Award of the said Commissioners.

V. And be it further enacted, That *Richard Payne* of *Beyton*, in the said County, Land Surveyor, shall be and is hereby appointed Surveyor for all the Purposes of this Act; and that in case of his Death or Refusal to act, then some other fit and proper Person or Persons shall be nominated and appointed for those Purposes, by Writing under the Hands of the said Commissioners.

Surveyor.

VI. And be it further enacted, That the said Commissioners shall, and they are hereby required to cause Notice to be given of the Time and Place of the First and every other Meeting for the Execution of this and the said recited Act, by inserting such Notice in the Newspapers called the *Ipswich Journal*, and *Bury and Norwich Post*, or one of them, or in some other Newspaper, printed or circulated within the said County of *Suffolk*, Ten Days at least before every such Meeting (Meetings by Adjournment only excepted); and if at any Meeting appointed to be holden by the said Commissioners only One of the said Commissioners shall attend, the Commissioner so attending may adjourn such Meeting to such Time and Place as shall be by him deemed most convenient; and in case neither of the said Commissioners shall attend such appointed Meeting, or to which any such Meeting shall be adjourned, then the Person who shall act as Clerk of the said Commissioners shall adjourn the same to such Time and Place as he shall deem convenient: Provided that all Meetings of the said Commissioners shall be holden within the said Parishes, or some or one of them, or within Eight Miles from the Boundaries of some or one of such Parishes.

Notices.

VII. And

VII. 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 to be inserted in the aforesaid Newspapers, or one of them, or in some other Newspaper printed or circulated in the said County of *Suffolk*.

Disputes between Proprietors to be settled.

Commissioners not to determine Titles.

VIII. 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 Lands or Grounds hereby directed to be divided and allotted, touching or concerning their respective Shares and Proportions which they, or any of them, shall have or claim to have therein, or touching or concerning any other Matter or Thing relating to the said Division and Allotment, 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 or empower the said Commissioners to determine the Title to any Messuages, 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 Incroachments as herein mentioned); but in case the said Commissioners shall be of Opinion against the Person or Persons so in Possession, they shall forbear to make any Determination thereupon, until the Possession shall have been given up by or recovered from such Person or Persons, by Ejectment or other due Course of Law.

Costs may be awarded.

IX. And be it further enacted, That in case the said Commissioners or Umpire 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 for the said Commissioners or Umpire, and they are hereby respectively empowered, upon Application to them respectively made for that Purpose, to settle, assess, and award such Costs and Charges as they respectively shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners or Umpire shall be made by the Person or Persons whose Claim or Claims, Objection or Objections, shall be thereby disallowed or over-ruled; and in case the Person or Persons 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 or Umpire, and they are hereby respectively authorized and required by Warrant under their Hands, 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 so neglecting or refusing to pay the same, 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.

Persons dissatisfied with Commissioners Determination to go to Trial.

X. Provided always, and be it further enacted, That in case any Person or Persons interested or claiming to be interested in the said intended Division and Inclosure shall be dissatisfied with any Determination of the said Commissioners or Umpire, touching or concerning any Claim or Claims of the Right to the Soil of the said Commons or Waste Grounds, or of any Rights of Common or other Rights or Interests in, over, or upon the Land or Ground hereby directed to be divided, allotted, and inclosed, or any

any Part thereof, it shall be lawful for the Person or Persons so dissatisfied to proceed to a Trial at Law of the Matter so determined by the said Commissioners or Umpire, at the then next or at the following Assizes to be holden for the County of *Suffolk*, and for that Purpose the Person or Persons who shall be dissatisfied with the Determination of the said Commissioners or Umpire, shall cause an Action to be brought upon a feigned Issue against the Person or Persons in whose Favour such Determination shall have been made, within Two Calendar Months next after such Determination of the said Commissioners or Umpire; and the Defendant or Defendants in such Action or Actions shall, and he, she, or they is and are hereby required to name an Attorney or Attornies, who shall appear thereto, or file common Bail, and accept One or more Issue or Issues, whereby such Claim or Claims, and the Right or Rights thereby insisted on, may be tried and determined; such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced; in case the Parties shall differ about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons whomsoever, unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts shall be obtained and not set aside by the Court, the said Commissioners shall, and they are hereby required to act in Conformity thereto, and to allow or disallow the Claim or Claims thereby determined according to the Event of such Trial or Trials: Provided always, that the Determination of the said Commissioners or Umpire touching such Claim or Claims of Rights to the Soil of the said Commons or Waste Grounds, or of any Right of Common or other Interest in, over, or upon the Land or Ground hereby directed to be divided, allotted, and inclosed, or any Part thereof, which shall not be objected to, or the Party or Parties objecting not causing such Action at Law to be brought and proceeded in as aforesaid, shall be final, binding, and conclusive upon all Parties.

XI. And be it further enacted, That if any of the Parties in any Action to be brought in pursuance of this Act shall die pending the same, such Actions shall not abate by reason thereof, but shall be proceeded in as if no such Event had happened. Actions not to abate.

XII. And if 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 herein-before limited for bringing such Action or Actions, it shall be lawful for the Person or Persons, Body or Bodies Politick 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 to 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 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

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be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all the Parties shall be bound and concluded by the Event of such Action or Actions.

Suspension of
Rights of
Common.

XIII. And be it further enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized at any Time or Times before the Execution of the said Award, by Notice in Writing under their Hands, to be fixed upon the principal outer Door of the Parish Church of *Elmswell, Great Ashfield, Hunston, and Norton* aforesaid, to order and direct all or any Part of the Rights of Common in, over, and upon the said Green and other Commons or Waste Grounds, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended for and during such Time as shall be expressed in such Notice; and that all such Rights of Common as the said Commissioners shall, by such Writing, order and direct to be extinguished, or the Exercise thereof to be suspended as aforesaid, shall, from the Time of affixing such Writing on the said Church Door cease, determine, be extinguished, or the Exercise thereof be suspended accordingly; any Law, Usage, or Custom to the contrary thereof notwithstanding.

Not to cut
Furze, &c.

XIV. And be it further enacted, That it shall not be lawful for any Person whomsoever, from and after the passing of this Act until the Execution of the Award of the said Commissioners, to cut, dig, pare, flay, or carry away, any Furze, Flag, or Soil in, upon, or from the said Commons or Waste Grounds, or any Part thereof, without the Leave and Licence of the said Commissioners first had and obtained in Writing under their Hands, which Leave and Licence, they the said Commissioners are hereby empowered to grant under such Rules, Orders, Regulations, and Restrictions, as they shall think proper; and if any Person shall after the passing of this Act cut, dig, pare, grave, flay, or carry away any Furze, Flags, or Soil, in, upon, or from the said Premises, or any Part thereof, without the Leave or Licence of the said Commissioners, or having obtained such Leave or Licence shall act in any Manner contrary thereto, or to the Rules, Orders, Regulations, and Restrictions therein contained, every such Person being convicted thereof either by his or her own Confession, or upon the Oath of One credible Witness, before One of His Majesty's Justices of the Peace for the said County of *Suffolk*, not being interested, who may summon the Parties concerned, and examine Witnesses upon Oath relating to the said Complaint, shall for every such Offence forfeit and pay such Sum of Money as he the said Justice shall appoint, not exceeding the Sum of Forty Shillings; and it shall be lawful for such Justice by Warrant under his Hand and Seal, directed to any Person or Persons whomsoever, to cause the said Penalty to be raised by Distress and Sale of the Goods and Chattels of the Persons so offending, (Demand having been first made thereof), rendering the Overplus (if any) after deducting the Costs and Charges of such Distress and Sale to the Person so offending; and the said Penalty, when paid or levied shall be applied by the said Commissioners for the Purposes of this Act.

Encroach-
ments.

XV. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the said Green, or any of the said Commons or Waste Grounds, shall be deemed Part thereof, and shall be divided and allotted accordingly as Part thereof;

and in case any Difference or Dispute shall arise touching any such Encroachments, or the Extent thereof, such Dispute shall be determined by the said Commissioners.

XVI. And be it further enacted, That the said Commissioners shall assign, set out and allot such Part, and so much of the said Green and other Commons and Waste Grounds lying and being within the said respective Parishes, unto and for the Lords and Ladies of the several Manors herein-before mentioned, and of any other Manor or Manors, being Owner or Owners of the Soil of the said Green, and other Commons or Waste Grounds respectively, or unto and for such of those Lords and Ladies respectively as is or are Owner or Owners as aforesaid, as in the Judgment of the said Commissioners shall be equal in Value to One Eighteenth Part of the said Green, Commons, or Waste Grounds, within the said respective Parishes, according to their Rights and Interests in and to the Soil thereof in each respective Parish; but that the Right of Soil in each Parish, if not attached to One Manor only, but attached to Two or more Manors, shall as to the Allotment to be hereby made, in respect of such Right of Soil, be divided and apportioned, by or according to the Amount in Value of the Copyhold Messuages, Lands, and Tenements holden of such Manors respectively, and lying within that particular Parish.

Allotment to
Lords of
Manors.

XVII. And whereas there are but a small Quantity of Glebe Land belonging to the said Rectory and Parish Church of *Elmswell* aforesaid, and the said *Joseph Thomas Lawton* is desirous of increasing the Quantity for the Convenience of the said Rectory, be it further enacted, That the said Commissioners shall, and they are hereby authorized and required to set out and allot unto and for the said *Joseph Thomas Lawton* and his Successors, Rectors of the said Rectory and Parish Church, such Part or Parts of the said Green and other Commons and Waste Grounds hereby intended to be divided and allotted, lying and being within the Parish of *Elmswell* aforesaid, as shall in the Judgment of the said Commissioners be equal in Value to One Ninth Part of the same Green, Common or Waste Grounds, lying and being within the same Parish, which shall remain after the public Roads and the Allotment to be made him in respect of the said Rectory, as herein-after mentioned, shall have been taken out and deducted; such Allotment to be taken and accepted in lieu of and Compensation for all Tythes, both Great and Small, to arise, renew, increase, or grow due and payable to the said *Joseph Thomas Lawton* and his Successors, Rectors for the Time being of the said Rectory and Parish Church of *Elmswell*, out of, for, or in respect of the Remainder Part of the said Green, and other Commons or Waste Grounds, within the same Parish.

Allotment to
Rector, &c.

XVIII. And be it further enacted, That the said Commissioners shall assign, set out, and allot unto and for the said *Joseph Thomas Lawton* and *William Clerke* respectively, and their respective Successors, Rectors as aforesaid for the Time being, such Part and Parts of the said Green and other Commons or Waste Grounds, hereby intended to be divided and allotted, lying within the said respective Parishes of *Elmswell* and *Norton*, as in the Judgment of the said Commissioners shall be a just and reasonable Compensation, Share and Allotment to them respectively

Allotment to
Rectors.

for

for their respective Rights of Common in and over the said Green and other Common or Waste Grounds belonging to the said respective Rectories.

Allotment of Residue. XIX. And be it further enacted, That after the several Allotments herein before-mentioned shall have been made, the said Commissioners shall, and they are hereby authorized and required to assign, set out, and allot the Residue and Remainder of the said Green and other Commons or Waste Grounds intended to be divided, allotted and inclosed by this Act, unto and amongst the several Owners and Proprietors of Messuages, Tofts, Lands, and Tenements within the said Parishes of *Elmswell, Great Ashfield, Hunston, and Norton*, (save and except the Owner or Owners, Proprietor or Proprietors of such Encroachments as herein-before mentioned in Right thereof), in such Quantities, Shares, and Proportions as the said Commissioners shall award, adjudge, and determine to be a just and reasonable Compensation, Share and Allotment to him, her, or them respectively for his, her, or their several and respective Rights and Interests in, over, and upon the said Commons or Waste Grounds hereby intended to be divided, allotted, and inclosed, in respect of and in Proportion to the yearly Value of the said Messuages, Tofts, Lands and Tenements respectively belonging to the said Proprietors, or any of them.

Commissioners empowered to set out Common Pastures. XX. And be it further enacted, That in case any of the Proprietors intitled to Rights of Common in or over the Lands or Grounds lying and being within the Parish of *Norton* aforesaid, hereby directed to be divided and allotted, or any Part thereof, shall request to have their Common Rights compensated by a Common Pasture instead of a distinct Allotment of Land, and shall give Notice thereof in Writing to the said Commissioners within such Time as the said Commissioners shall for that Purpose appoint, and the said Commissioners shall be of Opinion that the Number of Proprietors who have made such Request shall be sufficient to enable the said Commissioners to set out such Allotment as will answer the Purpose of a Common Pasture, then it shall be lawful for the said Commissioners, and they are hereby required to set out and allot to and for the Proprietors making such Request from and out of the Common or Waste Ground called *Norton Common*, Part of the said Waste Grounds lying within the Parish of *Norton* aforesaid, such Part and Parcel thereof as shall in the Judgment of the said Commissioners, be an equivalent Compensation for the Right of the Common to which the Proprietors making such Request shall be intitled; and if it should appear to the said Commissioners (without any such Request to them made) that the said last-mentioned Common or Waste Grounds by reason of Situation, Smallness of the Quantity, or the Interfection by Roads or other Circumstances, cannot be divided and inclosed to the Advantage of the Persons interested therein, the said Commissioners are hereby authorized to set out and allot the Herbage and Estovers thereof, as and for a Common Pasture or Common Pastures to such of the Proprietors of or Persons having Common Rights or other Interests in the Lands or Grounds hereby directed to be divided and allotted to whom the same shall, in the Judgment of the said Commissioners, be most convenient in Situation in or towards Satisfaction for the Rights and Interests of such Proprietors respectively; and the Land so to be allotted for Common Pasture, whether the same shall be allotted at the Request of such Proprietors as aforesaid, or without such Request, shall be used and enjoyed by the respective Proprietors to whom the same shall be allotted; and by their

their Heirs and Tenants respectively, and shall be stocked with such Kind and Number of Cattle, and at such Seasons and Times of the Year, and subject to such Regulations and Orders for the good Management and equitable Enjoyment thereof, as the said Commissioners by their Award shall establish and direct; and the Soil of the Land which shall be so allotted for Common Pasture shall, by virtue of this Act immediately on the Allotment thereof, be vested in the Lord of the said Manor of *Littlehaugh* for the Time being, as Conservator or Trustee of every such Allotment, for the Persons to whom the Right of Common thereon shall be allotted.

XXI. And be it further enacted, That all and every Part and Parcel of Land which in pursuance of this Act shall be allotted unto and for the said respective Rectors of the said Rectories of *Elmswell* and *Norton* for the Time being, shall be inclosed and ring-fenced in such Manner as the said Commissioners shall in and by the said Award direct or appoint, which Fences shall be made at the Expence of the several Owners of and Persons interested in the said Lands and Grounds; in and by this Act directed to be divided and allotted (except the said Rectors), in such Shares and Proportions as the said Commissioners shall, in and by their said Award, order and direct; and from and after the making of the said Fences, the same shall be for ever preserved, maintained, and kept up, by and at the Expence of the said Rectors respectively.

Rector's Allotment to be fenced.

XXII. Provided always, and be it further enacted, That if any Person hath sold, or shall at any Time before the Execution of the Award of the said Commissioners, sell his or her Right, Interest, or Property in, over, or upon the said Commons or Waste Grounds, or any Part thereof, to any other Person, then and in every such Case it shall be lawful for the said Commissioners, and they are hereby directed, authorized and required to make an Allotment of Land or Herbage unto the Vendee or Purchaser in such Sale, or to his or her Heirs or Assigns, for and in respect of such Right, Interest and Property so sold as aforesaid; and every such Vendee or Purchaser, and his and her Heirs and Assigns, shall and may from and after the Execution of the said Award, hold and enjoy the Land and Herbage so to be allotted to him, or her, or them as aforesaid, in the same Manner to all Intents and Purposes as the Vendee in every such Sale, might, could, or ought to have held and enjoyed the same, in case such Sale had not been made, or such Right, Interest, or Property had been vested in such Vendor at the Time of making such Allotment as aforesaid.

Persons selling their Rights, Allotments to be made to the Purchasers.

XXIII. And be it further enacted, That all the Messuages, Cottages, Lands and Grounds, which shall be allotted by virtue of this or the said recited Act, to any Person or Persons in lieu or in respect of any other Messuages, Cottages, Lands or Grounds holden of any Manor or Manors by Copy of Court Roll, or in respect of any Leasehold Messuages, Lands or Tenements, or in respect of any Rights of Common, or of any other Right or Interest appurtenant or appendant to any such Copyhold or Leasehold Premises shall, from and after the Execution of the Award of the said Commissioners, be deemed and taken to be Copyhold or Leasehold, and shall be held as such by and under the same Tenure, Rents, Payments, Fines, Heriots, Customs and Services as the Copyhold and Leasehold Messuages, Cottages, Lands or Tenements respectively, in lieu or in respect whereof such Allotments shall be made, are now held, and

Allotment to be of same Tenure.

that such Parts of the said Green and other Common or Waste Grounds, as shall be allotted to any Person or Persons by virtue of this Act, in respect of any Commonable Messuages, Cottages or Tofts which are Copyhold shall be deemed and taken to be Copyhold, and shall be subject to, and the Owners or Owner thereof shall pay to the Lord or Lady, Lords or Ladies of the Manor or Manors of which such Copyhold Messuages, Cottages, Lands or Grounds are holden, a Quit Rent of One Penny per Acre for every Acre of Land which shall be allotted in respect of such Copyhold Messuages, Cottages, Lands or Grounds over and above the present Quit Rents paid for the same; and that all and every Person and Persons to whom such Copyhold Lands and Premises shall be allotted as aforesaid shall, within Six Calendar Months next after the Execution of the Award of the said Commissioners, 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 the Stamp Duties, and for the 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 Manors as the said Commissioners shall order and direct); but in case the 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 entitled to such Lands and Premises; and after every such first Admission as aforesaid, the Copyhold Premises to be allotted as aforesaid shall at all Times be held under and subject to the same Tenure, Fines, Heriots, and other Payments as the present Copyhold Messuages, Cottages, Lands and Tenements, in respect whereof such Lands and Premises were allotted, are now held under and subject, together with the said Rent of One Penny yearly for every Acre of Land allotted in respect of such Commonable Lands or Grounds; and the said Commissioners shall, by their said Award determine, describe, and abut the Messuages, Cottages; Lands or Grounds respectively which are to be or remain Copyhold or Leasehold; and all other Lands and Grounds to be allotted by virtue of this Act (save and except such as shall be so ascertained by the said Commissioners to be Copyhold or Leasehold) shall be deemed, taken and enjoyed as Freehold Lands and Grounds, subject nevertheless to such free Rents and Services as are now payable out of the respective Lands, Tenements or Hereditaments, in respect whereof they shall or may be allotted.

Exchanges.

XXIV. And be it further enacted, That it shall be lawful for the said Commissioners to set out, allot, and award any Lands, Tenements, or Hereditaments, within the said Parishes of *Elmswell, Great Ashfield, Hunston,* and *Norton*, in lieu of and in Exchange for any Lands, Tenements, and Hereditaments whatsoever within the said Parishes, or within any adjoining Parish, Township, Hamlet, or Place, provided that all such Exchanges be ascertained, specified, and declared in the Award of the said Commissioners, and be made with the Consent of the Owner or Owners of the Lands, Tenements, or Hereditaments which shall be so exchanged, whether such Owner or Owners shall be a Body or Bodies Politic, Corporate or Collegiate, or Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husband, Committees, or Attornies of or acting for any such Proprietors or Owners as aforesaid, who at the
Time

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 Body Politic, Corporate, or Collegiate, and under the Hands of the other consenting Parties respectively, and all and every such Exchange or Exchanges so to be made shall be good, valid, and effectual in Law to all Intents and Purposes whatsoever: Provided always, nevertheless, that no such Exchange shall be made of any Lands, Tenements, and Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent testified as aforesaid of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

XXV. And be it further enacted, That all and every Tenant or Occupier under any Lease or Agreement for any Term of Years of any Part of the said Green, and other Common or Waste Ground within the said Parishes of *Elmswell, Great Ashfield, Hunston, and Norton*, which shall be allotted or exchanged by virtue of the said recited Act and this Act, shall immediately after the Execution of the Award of the said Commissioners, or within such Time as the said Commissioners shall appoint, and whereof Notice in Writing shall be given for that Purpose, give up and resign the full and peaceable Possession of such Allotment or exchanged Land, to the Person or Persons to or with whom the same respectively shall be allotted or exchanged, such respective Tenants and Occupiers of such allotted or exchanged Land receiving from the respective Owners and Proprietors thereof such Satisfaction in Money as the said Commissioners shall ascertain, order, direct or appoint to be paid to such Tenant or Tenants respectively on Account thereof, as an Equivalent for the Loss or Losses he, she, or they shall respectively sustain thereby; and if the Money so to be ascertained as aforesaid shall not be paid to the Person or Persons intitled to receive the same within Thirty Days after Demand made thereof, it shall be lawful for the said Commissioners, and they are hereby required to raise and levy the same for the Use or Benefit of the Person or Persons intitled thereto, by such Ways and Means as the Costs, Charges, and Expences of obtaining, passing and executing this Act can or may be raised, levied, and recovered: Provided always, that if there shall be any such Lease or Agreement of Lands, Part of which shall lie in the said Parishes, or any of them, and Part in any adjoining Parishes or Parish, all such Leases and Agreements may be determined; but where any Lands shall have been taken in Exchange, which Lands shall be under any such Lease or Agreement, and wholly situate in any adjoining Parish, such last-mentioned Lease or Agreement shall not be vacated.

Tenants to give up allotted or exchanged Lands.

XXVI. And be it further enacted, That in all Cases where an Allotment of any Part of the said Green and other Common or Waste Ground shall be made for or in respect of the said Right of Common belonging to any Messuages, Cottages, Lands, or Tenements within the said Parishes of *Elmswell, Great Ashfield, Hunston, and Norton*, which are held by any Tenants or Occupiers for a Term of Years by virtue of any Lease or Agreement thereof made, and such Tenants or Occupiers shall not come to an Agreement with the Person or Persons to whom such Allotments shall be made for the Use and Occupation thereof, such Tenants or Occu-

Directions where Tenants and Landlords of allotted Lands cannot agree for the same.

piers

piers shall not be entitled to enter upon, hold, or occupy the said Allotment or Allotments, but shall nevertheless have and receive from the respective Owners and Proprietors thereof, such an Abatement from the yearly Rent or Rents reserved and made payable in and by such Lease or Leases, Agreement or Agreements, for the Term or Terms then to come therein, as the said Commissioners shall judge to be a reasonable Compensation to him, her or them, for the Right of Common which hath been accustomed to be used and exercised by such Tenant or Occupiers, and which shall be extinguished by this Act.

Wills and Settlements not to be affected.

XXVII. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to revoke, make void, alter or annul any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debts, Rents, or Incumbrances out of, upon, or affecting any of the Lands or Grounds to be divided, allotted or exchanged in pursuance of this or the said recited Act, or any Part or Parts thereof respectively; but that the respective Persons to whom any Lands or Hereditaments shall be allotted or given in Exchange by virtue of this or the said recited Act, shall be seized thereof to such and the same Uses and for such and the same Estates, and subject to such and the same Wills, Jointures, Rent Charges, and Incumbrances, and no other, as the Lands, Grounds and Hereditaments whereof such Person was seized or possessed, at or immediately before the Execution of the Award of the said Commissioners, or for which or in respect whereof such Allotments or Exchanges shall be made, would have been subject to, charged with or affected by, in case this Act had not passed.

No Sheep to be kept in Allotment.

XXVIII. 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 out of the said Green or other Commons or Grounds during the Space of Seven Years next after the Execution of the said Award, unless the Person or Persons so keeping the same shall first at his, her, or their own 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 Quick Fence be planted or set by the Owner or Occupier of such Allotments as aforesaid, or by the Owner or Occupier of the Allotments or Allotment adjoining thereto.

Any Person advancing Money to be repaid with Interest.

XXIX. And be it further enacted, That if any of the Proprietors or Persons interested in the said Commons or Waste Ground, and hereby directed to be divided, allotted, and inclosed, or any other Person or Persons on his, her, or their Behalf, shall advance and pay any Money in Discharge of the Fees or other Expences of obtaining and executing this Act, the Money so paid and advanced shall be repaid and satisfied by the Direction of the said Commissioners, together with lawful Interest for the same.

Expences of the Act.

XXX. And be it further enacted, That the Costs, Charges, and Expences of inclosing the Allotments which shall by virtue of this Act be made to the said Rectors of the said Rectories of *Elmswell* and *Norton*, in Right of their respective Rectories, and all Costs, Charges, and Expences incident to and attending the obtaining of this Act, and of surveying, admeasuring, planning, valuing, dividing and allotting the said Green and other Commons

or Waste Ground to be divided and allotted by virtue of this Act, and of preparing and enrolling the Award of the said Commissioners, and all the Charges and Expences of the 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 publick Carriage Roads and Highways to be set out and appointed by the said Commissioners, and all other Expences of carrying this Act into Execution, shall be borne and defrayed by the several Persons to whom any Allotment or Allotments shall be made by virtue of this Act, (save and except the said Rectors), for or in respect of any Allotment or Allotments which shall be made to them respectively in right of their respective Rectories as aforesaid, which said Costs, Charges, and Expences, together with the Proportions thereof to be made by the several Persons hereby made liable to the Payment thereof, shall be settled and adjusted by the said Commissioners, and shall be paid at such Time, Place, and to such Person or Persons as the said Commissioners shall appoint; and in case any Person or Persons shall refuse or neglect to pay his, her, or their Proportions of such Costs, Charges, and Expences as aforesaid within the Time, and to such Person or Persons as the said Commissioners shall appoint, then and in such Case the said Commissioners shall cause the same to be levied and recovered in the Manner directed by the said recited Act: Provided, and be it further enacted, That if at the Time of the Execution of the Award of the said Commissioners there shall remain due from any Person or Persons, Body or Bodies Politick or Corporate, any Sum or Sums of Money which shall have been adjudged or ordered to be paid by virtue of this Act, it shall be lawful for the said Commissioners, and they are hereby authorized and required to levy and raise the same in like Manner as they might or could have done before the Execution of their Award.

Commissioners may raise Arrears of Rates after Execution of Award.

XXXI. Provided always, and be it further enacted, That all the Costs, Charges, and Expences attending the making and completing of any Exchanges and Partitions shall be paid, borne, and defrayed in such Manner and in such Proportions as the said Commissioners shall by their Award or any Writing under their Hands direct or appoint.

Expences of Exchanges and Partitions.

XXXII. Provided always, 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 this Act.

Proprietors, &c. to pay their own Expences.

XXXIII. And be it further enacted, That once at least in every Year during the Execution of this Act, (such Year to be computed from the Day of the First Meeting of the Commissioners), the said Commissioners shall and are hereby required to make a true and just Statement or Account of all Sums of Money by them received and expended, or due to them for their own Trouble or Expences in the Execution of this and the said recited Act, 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 not interested in the Premises for the said County of *Suffolk*, to be by him or them examined and balanced; and such Balance shall be by such Justice or Justices stated in the Books

Commissioners to account.

of Accounts to be kept in the Office of the Clerk to the said Commissioners; and no Charge or Item of such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been allowed by such Justice or Justices.

XXXIV. And be it further enacted, That the Award to be made by the said Commissioners, in Manner directed by the said recited Act, with a reduced Map or Plan of the said Parishes of *Elmswell*, *Great Ashfield*, *Hunston*, and *Norton*, 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 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, shall, within Six Calendar Months next after the Execution of the said Award, be deposited and kept as herein-after mentioned; (that is to say), the Copy thereof, or so much thereof as shall relate to the said Parish of *Elmswell*, with the Map thereof annexed, shall be deposited and kept in the Parish Church of *Elmswell* aforesaid, for the Inspection of the several Persons interested therein, and the Copy thereof, or so much thereof as shall relate to the said Parish of *Great Ashfield*, with the Map thereof annexed, shall be deposited and kept within the Parish Church of *Great Ashfield* aforesaid, for the Inspection of the several Persons interested therein, and the Copy thereof, or so much thereof as shall relate to the said Parish of *Hunston*, with the Map thereof annexed, shall be deposited and kept within the Parish Church of *Hunston*, for the Inspection of the several Persons interested therein; and the Copy thereof, or so much thereof as shall relate to the said Parish of *Norton*, with the Map thereof annexed, shall be deposited and kept in the Parish Church of *Norton* aforesaid, or in such other proper Place as the said Commissioners shall appoint, for the Inspection of the several Persons interested therein; and the said Award, with such reduced Map as aforesaid shall, within Six Calendar Months next after the Execution thereof, be deposited with the Clerk of the Peace for the said County, so that Recourse may be had thereto by any Person or Persons interested in the said Premises, for the Reception whereof the Fee of Two Guineas shall be paid, and for the Inspection and Perusal whereof, the Sum of One Shilling, and no more, shall be paid; and the said Award 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 Four-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 the 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.

XXXV. And

XXXV. 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 Act, (other than and except such Orders and Determinations of the said Commissioners as are herein directed to be final and conclusive, and except in such Cases where an Issue at Law may be tried as herein-before mentioned), then, and in every such Case, he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be holden for the said County of *Suffolk*, within Six 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 empowered to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress, and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed by *Certiorari* or any other Writ or Process whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; but in case such Appeal shall appear to the said Justices to be frivolous, vexatious, or without Foundation, then the said Justices shall award such Costs to be paid by the Appellant or Appellants, as to them in their Discretion shall seem reasonable, and to be levied in Manner aforesaid.

Persons aggrieved may appeal to the Quarter Sessions.

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

General Saving.

XXXVII. 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 by all Judges, Justices, and others.

Evidence Clause.

