



ANNO QUINQUAGESIMO SECUNDO

GEORGI II. REGIS.

Cap. 135.

An Act for inclosing Lands in the Manor of *Great Bentley*, in the County of *Essex*. [20th May 1812.]

WHEREAS there are within the Manor and Parish of *Great Bentley*, and within some Part of the Parish of *Frating* in the County of *Essex*, certain Commons and Waste Grounds, called *Great Bentley Green*, *Angiers Green*, *South Heath*, and the *Tye*, together with several other Pieces or Plots of Waste Land, containing together by Estimation One hundred Acres or more: And whereas *William Francis of Colchester*, in the County of *Essex*, Gentleman, is Lord of the said Manor, and as such, is entitled to the Soil of the said Commons and Wastes, and to all Manorial Rights within the said Manor: 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 Reverend *John Smythies*, *John Borrodell*, *Richard Carrington*, *Jacob Manning*, and divers other Persons, as Copyhold Tenants of the said Manor of *Great Bentley*, or otherwise, are interested in the said Commons and Waste Lands, and have severally, for themselves and their respective Lessees or Tenants, a Right of Common thereon: And whereas the said several Commons and Waste Lands, except the said Green, called *Great Bentley Green*, in their present State, afford very little Profit or Advantage, but are capable of great Improvement; and if divided, allotted, and inclosed, would be of great Advantage to the several Persons interested therein, and of great public Utility; but inasmuch as the said Division, Allotment, and Inclosure cannot be sufficiently established to

[*Loc. & Per.*]

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Commissioners and Umpires appointed.

All Acts done by Umpire and one Commissioner to be valid.

Appointment of new Commissioners and Umpire.

answer the Intention of the several Parties interested, 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 *Alexander Watford* of the Town of *Cambridge*, in the County of *Cambridge*, Gentleman, and *Benjamin Strutt* of *Colchester*, in the said County of *Essex*, Gentleman, shall be, and they are hereby appointed Commissioners for valuing, dividing, allotting, and inclosing the said Commons and Waste Lands, and for carrying this Act into Execution; subject to the Rules, Orders, and Directions in this Act contained, and also subject to the Powers and Provisions of the said recited Act, except where the same are hereby varied or altered; and that *William Lawrence* of *Maldon*, in the said County of *Essex*, Gentleman, and his Successor for the Time being, to be appointed as herein-after mentioned, shall be, and he is hereby appointed to act as an Umpire, touching any Matter in which there shall be a Difference of Opinion between the said Two Commissioners, in the Execution of this and the said recited Act; and all Matters and Things by this Act or the said Act authorized and directed to be done by the said Commissioners, may in the Event of any such Differences be done and executed by the said Umpire and One of the said Commissioners, and shall be as valid and effectual to all Intents and Purposes, as if the same were done by both the said Commissioners.

II. And be it further enacted, That if the said *Alexander Watford*, or any Commissioner to be appointed in his Stead, shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapacitated to act; then, and in every such Case, it shall be lawful for the said *William Francis*, or his Heirs, being Lord or Lords of the said Manor for the Time being, within Forty Days next after such Death, Refusal, or Incapacity shall be made known to them by Notice in Writing from the surviving or remaining Commissioner, (and which Notice such Commissioner is hereby required to give), for them to appoint a new Commissioner (not interested in the said Inclosure) in the Stead of the said *Alexander Watford*, or such Commissioner so dying, refusing, or becoming incapacitated to act; and in case no such Appointment of a Commissioner shall be made by the said *William Francis* and his Heirs, being Lord or Lords of the said Manor for the Time being, the surviving or remaining Commissioner shall, and he is hereby required, at a Meeting to be held for that Purpose, by Writing under his Hand, to appoint One other Commissioner for the Purposes of this Act, in the Room and Stead of such Commissioner so dying, refusing, or becoming incapacitated to act; and if the said *Benjamin Strutt*, or any Commissioner to be appointed in his Stead, shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapacitated to act, then, and in every such Case a new Commissioner (not interested in the said Inclosure) shall be appointed in the Stead of the said *Benjamin Strutt*, or such last-mentioned Commissioner so dying, refusing, or becoming incapacitated to act, by a Majority of the Copyholders aforesaid, and others interested in the said Commons and Waste Lands, (such Majority to be ascertained by the Number of Acres held by each Proprietor, and in respect whereof they shall be respectively so interested), or their Successors, within Forty Days next after such Notice of such last-mentioned Death, Refusal, or Incapacity, to be

be declared in Writing by the surviving Commissioner, by Notice to be affixed on the principal Outer Doors of the Parish Church of *Great Bentley* and *Frating* aforesaid; and if the said *William Lawrence*, or any Umpire to be appointed in his Stead, shall, before the Execution of all the Powers and Authorities hereby vested in him, die, refuse, or become incapacitated to act, then, and in every such Case a new Umpire (not interested in the said Inclosure) shall be appointed in the Stead of the said *William Lawrence*, or such Umpire so dying, refusing, or becoming incapacitated to act, by the said Commissioners, and their respective Successors to be appointed as aforesaid, within Thirty Days next after such Death, Refusal, or Incapacity; and every Appointment of a Commissioner and Umpire in pursuance of this Act, shall be reduced into Writing, and signed by the Persons making the same; and every new Commissioner and Umpire to be appointed as aforesaid, shall have the like Powers and Authorities as if he had been named a Commissioner and Umpire in this Act.

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

‘ I DO swear, that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, 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-second Year of the Reign of His Majesty King *George* the Third, intituled *An Act for inclosing Lands in the Manor of Great Bentley, in the County of Essex*, according to Equity and a good Conscience, and without Favour or Affection, Prejudice or Partiality to any Person or Persons whomsoever. So help me GOD.’

Which Oath either of the said Commissioners is hereby empowered and required to administer; and the said Oath so to be taken and subscribed by such Umpire, and also the Appointment of every new Umpire, shall be annexed to and inrolled with the Award of the said Commissioners.

IV. And be it further enacted, That the said Commissioners shall cause public Notice in Writing under their Hands, to be affixed upon the principal Outer Doors of the said Parish Churches of *Great Bentley* and *Frating*, of the Time and Place of their First and every other Meeting for the Execution of this Act, at least Ten Days before any such Meeting shall be holden (Meetings by Adjournment only excepted); and the said Commissioners shall and may adjourn themselves from Time to Time as often as they see Occasion for the due Execution of this Act; and in case the Two Commissioners shall not meet at the Time and Place appointed for any Meeting, or to which any Meeting shall be adjourned, it shall be lawful for the Commissioner who shall attend at such Time and Place, to adjourn the said Meeting, to be held on a future Day, not exceeding Thirty Days from the Day of such Adjournment, to be held at the same or any other Place within the said Parish of *Great Bentley*, or within Eight Miles thereof, as he shall think most convenient, giving timely Notice thereof to the absent Commissioner; and all the Meetings of the said Commissioners shall be held within the said Parish, or within Eight Miles of the Boundary thereof. Notice of First Meeting.

V. And

Notice to be
given for re-
ceiving
Claims.

V. And be it further enacted, That the said Commissioners shall as soon as conveniently may be, cause Notice in Writing to be affixed on the principal Outer Doors of the Parish Churches of *Great Bentley* and *Frating*, on some *Sunday* before Divine Service, of the Day or Days appointed by them for receiving Claims of Rights or Interests in or over the Lands and Grounds hereby intended to be divided and inclosed, (which Day or Days shall at least be Twenty Days from the Time of giving such Notice thereof); and that at such Meeting or Meetings all and every Person and Persons having or claiming to have any Right or Rights of Common, or Share in the said Commons and Waste Lands, or any other Right, Property, or Interest in, or over any of the said Open Commons and Waste Lands, shall, and they are hereby required, by themselves or their Agents, to deliver in their respective Claims in Writing under their Hands, or the Hands of their Agents, distinguishing in such Claims the Tenure of the Estates in respect whereof such Claims are made, and stating therein the Number of Messuages, Tofts or Cottages, and Quantity of Land, by Estimation, or other Hereditaments in respect whereof they claim Right of Common or other Rights within the said Parish, and such further Particulars as shall in the Judgment and Opinion of the said Commissioners be necessary to describe such Claims with Precision; and that no such Claims shall be received by the said Commissioners after the Meeting which in the Notice thereof shall be expressed to be the last Meeting for receiving such Claims, (except for some special Cause to be allowed by the said Commissioners); and after the Claims shall be received, and an Abstract thereof left for the Inspection of the Proprietors and Persons interested, the said Commissioners shall give Notice, in the Manner herein-before mentioned, of the Day or Days appointed by them for hearing and determining the same, when and where all Parties concerned may appear before them; and shew Cause for or against the Allowance or Disallowance of such Claims; and in case any of the said Claims shall be objected to, or any Doubt or Difficulty shall arise respecting such Claims, or if any Dispute or Difference shall happen between any Proprietors of Estates, touching their respective Rights or Claims, the said Commissioners, or the said Umpire and One Commissioner shall and they are hereby authorized and required, to hear and determine the same.

Other No-
tices how to
be given.

VI. Provided always, and be it further enacted, 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 Newspaper called *The Chelmsford Chronicle*, or in some other Newspaper circulated within the said County of *Essex*, or upon the principal Outer Doors of the Parish Churches of *Great Bentley* and *Frating* aforesaid.

Commission-
ers to deter-
mine Differ-
ences.

VII. 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 Division and Allotments, touching or concerning any of the Rights, Interests, Shares, and Proportions which they or any of them shall have or claim to have of, and in the Lands hereby directed to be divided and allotted, or touching or concerning any other Matter or Thing relating to the said Division and Allotments, it shall be

lawful for the said Commissioners, and they are hereby authorized to examine into, hear, and determine the same: Provided always, that nothing in this Act contained shall authorize the said Commissioners or Umpire to determine the Title to any Messuages, Cottages, Lands, Tenements, or Hereditaments whatsoever.

VIII. Provided also, and be it further enacted, That nothing in this Act contained shall extend to enable the said Commissioners or Umpire to determine any Right between any Parties contrary to the Possession of any of such Parties, (except in Cases of Encroachments); but in case the said Commissioners shall be of Opinion against the Right of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up by such Person or Persons, or recovered from such Person or Persons by Ejectment or other due course of Law.

Persons in Possession not to be molested without due course of Law.

IX. And be it further enacted, That in case the said Commissioners shall, upon hearing and determining of any Claim or Claims, Objection or Objections, to be delivered to them in pursuance of this Act, or upon the Hearing and Determination of any Dispute or Difference as aforesaid, see Cause to award any Costs, it shall and may be lawful for the said Commissioners, and they are hereby empowered, upon Application made to them for that Purpose, to settle, assess, and award such Costs and Charges as they shall think reasonable, to be paid to the Party or Parties in whose Favour any Determination of the said Commissioners shall be made, by the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, whose Claim or Claims, Objection or Objections shall be thereby disallowed or over-ruled, or against whom the said Commissioners shall have determined as aforesaid; and in case the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, who shall be liable to pay such Costs and Charges, shall neglect or refuse to pay the same on Demand, it shall be lawful for the said Commissioners, and they are hereby authorized, by Warrant under their Hands and Seals directed to any Person or Persons whomsoever, to cause such Costs and Charges to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, 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.

Commissioners to assess Costs.

X. 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, or of the said Umpire and One of the said Commissioners, touching or concerning any of the Claims, Rights, or Interests intended to be affected by any Determination of the said Commissioners or Umpire, or of the said Umpire and One of the said Commissioners, it shall be lawful to and for the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, so dissatisfied, to proceed to a Trial at Law of the Matters so determined, at the then next Assizes to be holden for the said County of *Essex*, and for that Purpose the Person or Persons, or Body or Bodies

Allowing Parties to try their Rights by an Issue at Law.

Politic, Corporate or Collegiate, who shall be dissatisfied with the Determination of the said Commissioners or Umpire, or of the said Umpire and One of the said Commissioners, shall cause an Action to be brought upon a feigned Issue against the Person or Persons, Body or Bodies Politic, Corporate or Collegiate, in whose Favour such Determination shall have been made, within Six Calendar Months next after such Determination; and the Defendant or Defendants in such Action or Actions shall, and he, she, and 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 differ about the same); and the Verdict or Verdicts which shall be given upon the Trial of such Action or Actions, shall be binding, final, and conclusive upon all and every Person and Persons, and Body or Bodies Politic, Corporate or Collegiate; unless the Court wherein such Action or Actions shall be brought shall set aside such Verdict or Verdicts, and order a new Trial to be had therein, which it shall be lawful for the Court to do, in case the said Court shall think proper; and it shall also be lawful for the Court, upon sufficient Cause shewn, to put off the Trial of such Issue, as is usual in other Cases; and that after such Verdict or Verdicts shall be obtained, and not set aside by the said 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, or of the said Umpire and One of the said Commissioners, touching such Claim or Claims of Right to the Soil of the said Commons or Waste Grounds, or other Rights or Interests in, over, or upon the Lands and Grounds hereby directed to be divided, allotted, and inclosed, or of any Part thereof which shall not be objected to within the Time aforesaid, or being objected to, the Party or Parties objecting not causing such Action at Law to be brought and proceeded in within the Time, and in Manner aforesaid, shall be final and conclusive upon all Parties.

Determina-
tion of Com-
missioners or
Umpire to be
final, if not
objected to,
or no Action
brought.

If any of the
Parties die,
Proceedings
not to abate.

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

In Cases of
Deaths of
Parties before
Actions
brought, the
same to be
carried on and
defended in
their Names.

XII. Provided always, and be it further enacted, That 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 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 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

or other Person or Persons who shall claim the Benefit of such Determination as aforesaid to appear and defend such Action or Actions in the Name or Names of the Person or Persons so dead, and Proceedings shall be had therein in the same Manner as if such Person or Persons had been actually living, and the Rights of all Parties shall be equally bound and concluded by the Event of such Action or Actions.

XIII. And be it further enacted, That if any Suit or Suits shall be commenced or prosecuted, touching or concerning the Title of any Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, to any Messuages, Lands, or Tenements in the said Parish of *Great Bentley*, or in the said Parish of *Frating*, such Suit or Suits shall not impede, delay, or hinder the said Commissioners from proceeding in the Execution of the Powers vested in them by the said recited Act and this Act, but the said Division and Allotments shall be proceeded in notwithstanding such Suit or Suits; and the Allotment or Allotments to which such Suit or Suits shall relate, may be had and taken by the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, who upon the Determination of such Suit or Suits shall become entitled to the same.

Disputes respecting Titles not to impede the Execution of the Act.

XIV. And be it further enacted, That the said Commissioners shall and they are hereby empowered by Writing or Writings under their Hands, to be published as aforesaid, to appoint the Day or Time when all Rights of Common and of intercommoning, and of all other Rights in and over the several Commons and Waste Lands mentioned by this Act to be divided and inclosed, shall cease and be extinguished; and also shall and may, by any Writings to be published as aforesaid, make such Orders and Regulations for preventing all Persons from committing Waste or Destruction upon any Part of the said Lands and Grounds in the mean Time and until the said Division and Allotments thereof shall be effected, as to the said Commissioners shall seem expedient; all which Directions, Appointments, Orders, and Regulations of the said Commissioners shall be binding and conclusive upon all Parties interested; and the said Commissioners shall set and impose such Penalties or Forfeitures on Persons not conforming thereto, not exceeding Five Pounds on any One Person for One Offence, as they shall think necessary; which Penalties or Forfeitures shall be paid to such Person or Persons and for such Uses and Purposes as the said Commissioners by any Writing or Writings under their Hands, or by their Award, shall order or appoint; and if Default shall be made in Payment, then the said Commissioners shall and may, by any Warrant or Warrants under their Hands and Seals, directed to any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, together with reasonable Costs, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels.

Commissioners may extinguish Rights of Common.

XV. And be it further enacted, That it shall be lawful for the said Commissioners and they are hereby authorized, in case they shall think proper, to make and set up or cause to be made and set up good and sufficient Boundary Fences next or against any adjoining Parish, Township or Place: Provided always, that nothing in this Act shall extend or be construed to extend to inclose the said Heath or Green called *Great Bentley Green*, but the same shall

Commissioners may erect Boundary Fences. Not to enclose the Heath or Green called Bentley Green.

shall remain in the State it is now in, for the Health, Sports, Races, Fairs, and Convenience of the Inhabitants of the said Parish of *Great Bentley*.

Commissioners may turn or stop up public or private Roads.

XVI. And be it further enacted, That the said Commissioners may and they are hereby empowered to divert, turn, or stop up, and by their Award or any other Writing under their Hands, order and direct to be discontinued such of the present public Carriage, Bridle, Foot Roads and Highways passing or leading through or over the old inclosed Lands within the said Parish of *Great Bentley*, and that Part of the said Parish of *Frating* in which the said Manor extends, as they shall think usefess and unnecessary; but the same shall not be done without the Order and Concurrence of Two Justices of the Peace for the said County, in Manner by the said recited Act directed, and such Order shall be subject to Appeal in Manner directed by the said recited Act.

Allotments for Gravel Pits.

XVII. And be it further enacted, That the said Commissioners shall assign, set out and appoint, as may be convenient, such Parts or Pieces of the said Commons and Waste Lands hereby intended to be inclosed, not exceeding Three Acres in the Whole, as they shall think proper, for the getting of Stone and Gravel, or other Materials for repairing the public Roads and Ways, to be set out by virtue of the said recited Act, and for the Use of the Inhabitants of the said Parish and Manor of *Great Bentley*, and that Part of the said Parish of *Frating* into which the said Manor extends, for repairing their ancient Roads; and that the Herbage growing and renewing in and upon the said Parts or Pieces of Ground, shall be and is hereby vested in the several and respective Surveyors or Surveyor of the Highways of the Parish and Manor of *Great Bentley* and *Frating* aforesaid for the Time being, in Trust to set and let the same for the best Rent he or they can get, and to apply the Rents and Profits thereof in repairing the said public Roads and Ways, and to account to the Inhabitants of the said Parish and Manor, touching the Application thereof, annually on *Easter Monday* or *Easter Tuesday* in the Parish Churches of *Great Bentley* and *Frating* aforesaid.

Commissioners empowered to sell Part of the Wastes for defraying Expences.

XVIII. And be it further enacted, That for defraying the Charges and Expences incident to and attending the passing and carrying this and the said recited Act into Execution, and of the surveying, planning, valuing, dividing, and allotting the Commons and Waste Lands so intended to be inclosed, and of preparing and depositing the Award of the said Commissioners and the Duplicate thereof, and of forming and making the several public and private Roads or Ways, Ditches, Fences, Drains, Banks, Bridges, Gates, Stiles, and other Requisites as aforesaid, and all other the Charges and Expences of the said Commissioners and Clerk, and other necessary Expences in and about the Premises, together with the Interest for any Monies advanced for obtaining or effecting the Purposes of this Act, the said Commissioners hereby appointed, or to be appointed under the Powers contained in this and the said recited Acts, shall with all convenient Speed sell and dispose of such Part of the said Commons and Waste Lands by public Auction, and either in One Lot or separate Parcels, or otherwise, in the Manner and subject to the Directions and Regulations prescribed and contained in the said recited Act, to any Person or Persons willing to become or be the Purchaser or Purchasers thereof, for such Price

Price or Prices as to the said Commissioners shall seem sufficient to defray the Costs, Charges and Expences incident to and appertaining to the passing and carrying this and the said recited Act into Execution, and shall sign and give to such Purchaser or Purchasers a Receipt or Receipts in Writing, for his, her, or their Purchase Money; and the Purchaser or Purchasers of the said Waste and Commonable Lands, on paying his or their Purchase Money, and taking such Receipt or Receipts for the same as aforesaid, shall be thereupon and thereby discharged from his or their Purchase Money, and from any Obligation of seeing to the Application thereof, and become and be the actual Tenants of the Lands sold to them, and hold the same of the said Lord of the said Manor of *Great Bentley* in Fee Simple, as and in the Nature of Freehold, subject only to the Payment of an annual Free Quit Rent as herein-after directed concerning the other Allotments to be made in pursuance of this Act.

XIX. And be it further enacted, That the said Commissioners shall and they are hereby authorized and required (after the said public and private Roads, and Allotment or Allotments for getting Stone or other Materials shall be set out as aforesaid), to set out, allot and award, unto and for the said *William Francis*, as Lord of the said Manor of *Great Bentley*, a Quantity equal to One Twelfth Part of all the said Commons or Waste Lands intended to be inclosed by virtue of this Act, as a Satisfaction for his Right and Interest in the Soil of the Remainder of the said Commons or Waste Lands so intended to be inclosed, as Lord of the said Manor of *Great Bentley* aforesaid, or otherwise.

Allotments
to the Lord
of the Manor.

XX. And be it further enacted, That after such Allotment shall be made as aforesaid the said Commissioners shall and they are hereby authorized and required in the next Place, to set out, allot, and award all the Rest, Residue, and Remainder of the said Commons or Waste Lands unto and amongst the said Reverend *John Smythies*, and the said *John Borrodell*, *Richard Carrington*, *Jacob Manning*, and all and singular other Person and Persons, who at the Time of making such Allotments shall be entitled to any Lands or Tenements within the said Manor, in proportion to the Number of Acres each Person has and enjoys, in right or respect whereof they are severally interested or entitled to a Right of Common in and over the said Commons and Waste Lands; and that from and after such Allotments shall be so made as aforesaid, the several Persons to whom such Allotments shall be made, shall have and be entitled to the same Allotments respectively in Fee Simple, and have, hold, and enjoy the same as Freehold Lands, subject only to the Payment of such annual Free Quit Rent as herein-after mentioned, and without thereby extinguishing any Right or Rights of Common upon or over the said Green, called *Great Bentley Green*, not intended to be hereby inclosed.

Allotments
to the Rest of
the Copy-
holders.

XXI. And be it further enacted, That when and so soon as the said Commissioners shall have ascertained the respective Rights of the Persons interested in the said intended Inclosure, 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 the Day or Days and Place where all Persons interested may peruse a Schedule of such intended Allotments, and inspect

Allotments to
be marked on
a Plan, &c.

the Map or Plan whereon the same shall be delineated, and may have and receive a Copy of such Schedule, so far as the same relates to each Person respectively; and as some Persons may, upon Perusal of the said Schedule, or Inspection of such Map or Plan, be dissatisfied with their intended Allotments, the said Commissioners shall give Notice of One Meeting at least, to be held by them for hearing Complaints and Objections against such intended Allotments, and for hearing and determining all such Objections, and their Determination touching such Allotments shall be binding, final, and conclusive upon all Parties; and if any Person, after such Determination, shall refuse to accept his or her Share or Allotments within the Space of Two Calendar Months, or shall molest or disturb the Possession of any other Proprietor or Proprietors who shall have accepted of and entered upon his, her, or their Allotment, every such Person shall be and is hereby divested of all Right of Possession, Right of Pasturage and Common, and other Right, Estate, and Interest whatsoever of and in any of the Lands and Grounds which shall be allotted to any other Person or Persons by virtue of this Act, and shall be liable to Damage as a Trespasser, in case he or she shall trespass upon any of the said Allotments.

Allotments
to be fenced.

XXII. And be it further enacted, That the several Allotments hereinbefore directed to be set out of the said Commons and Waste Grounds, shall within such Time as shall be appointed by the said Commissioners be well and effectually inclosed, hedged, ditched, and fenced at the Costs and Charges of the Owners and Proprietors to whom the same are allotted; and such Hedges, Ditches, and Fences shall be maintained, repaired, and supported by and at the Expence of the respective Owners and Proprietors thereof for the Time being, in such Manner and Proportions as the said Commissioners shall in and by their Award order, direct, and appoint, and shall in the mean Time be divided, separated, and regulated in such Manner as the said Commissioners shall direct.

Power to sell
Right of
Common or
Allotments
previous to
their Award.

XXIII. And be it further enacted, That it shall be lawful for any Person or Persons interested in the said Inclosure, at any Time before the Execution of the said Award, to sell and dispose of such Estate, Right, Title and Property, which he or they shall have in, to, or upon the said Commons and Waste Grounds hereby directed to be divided and inclosed; or any Part thereof, or in or to any Allotment to be made in respect of any Land or Common Right therein respectively by virtue of this Act, and to convey the same to the Purchaser or Purchasers, separate from or with the Lands, Tenements and Hereditaments, in right whereof he or she is or shall be so entitled, subject nevertheless to all Settlements, Mortgages, and Incumbrances affecting such Lands, Tenements and Hereditaments; and also that all Sales and Conveyances of such Commons and Waste Lands, Common Rights or other Interests, or of such Allotments respectively, which shall be made at any Time before the Execution of the said Award, shall be valid and effectual; and such Common Rights or such Allotments may be granted and conveyed accordingly, subject to such Incumbrances as aforesaid; and every such Sale shall be good, valid, and effectual, to all Intents and Purposes whatsoever; and the said Commissioners, having Notice of such Sale, shall award such Allotments to the Purchasers thereof accordingly.

XXIV. Provided always, and be it further enacted, That nothing in this Act, or in the said recited Act contained, shall extend or be construed, deemed, adjudged, or taken to make void, or in anywise affect any Grant, Assurance, Limitation of Use, Declaration of Trust, or any Deed, Will, or Lease whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, Rent, Incumbrance or other Claim or Demand out of, upon, or affecting any of the Lands or Grounds hereby intended to be divided and inclosed; but that the Lands and Grounds so to be allotted shall, immediately after making such Allotments respectively, be, remain and enure, and be held and enjoyed, and the several Proprietors to and by whom the same respectively shall be allotted, shall from thenceforth stand and be seised and possessed thereof respectively, (subject to the Charges to be made by virtue of this Act on the Lands and Grounds hereby intended to be divided and inclosed), under and liable to the same Uses and Trusts, and to and for the same Estates and Interests, and subject to the same Powers, Provisoos, Limitations, Remainders, Charges and Incumbrances, as the several Lands, Tenements, and Hereditaments of every such Proprietor, in respect whereof such Allotments shall be made to him, her, or them, are and shall be subject and liable at the Time of such Division and Inclosure.

This and the
recited Act
not to affect
Wills, &c.

XXV. 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 Parish of *Great Bentley*, or within that Part of the said Parish of *Frating* in which the said Manor extends, in lieu of and in Exchange for any other Lands, Tenements, and Hereditaments 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 a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail general or special, or by the Courtesy of *England*, or for Years determinable on any Life or Lives, or with the Consent of the Guardians, Trustees, Feoffees for charitable or other Uses, Husbands, Committees, or Attornies of or acting for any such Proprietors or Owners 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 the Body Politic, Corporate or Collegiate, and under the Hands of the other consenting Parties respectively; and all and every such Exchange and Exchanges so to be made, shall be 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, or Hereditaments held in Right of any Church, Chapel, or other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Patron thereof, and of the Lord Bishop of the Diocese in which such Lands, Tenements, or Hereditaments so to be exchanged shall lie and be situate.

For making
Exchanges.

XXVI. Provided

Expences of
Partitions and
Exchanges by
whom to be
paid.

XXVI. 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 by the several Persons making such Exchanges and Partitions, in such Manner and in such Proportions as the said Commissioners shall by their Award or other separate Deed or Instrument order and direct.

Allotments
subject to
Great and
Small Tithes.

XXVII. Provided always, and be it further enacted, That all such Parts of the Common and Waste Lands intended to be inclosed under the Powers of this and the said recited Act, as are situate in the Parish of *Great Bentley*, from and after the passing of this Act shall be subject and liable to the Payment of Small Tithes, in the same Manner as other Lands in the said Parish of *Great Bentley*, and that such Parts of the said Commons and Waste Lands as are situate within the Parish of *Frating*, shall from and after the passing of this Act be subject and liable to the Payment of Great and Small Tithes, in the same Manner as other Lands in the said Parish of *Frating* are liable to.

The Quit
Rents for
new Inclo-
sures.

XXVIII. And be it further enacted, That for each Allotment on the said Heaths or Commons, the Tenants or Occupiers thereof for the Time being shall pay to the Lord of the said Manor for the Time being for ever, the annual Sum of One Shilling where the same shall not be more than One Acre; but if exceeding One Acre and should not be Two Acres, then a Quit Rent of Two Shillings; and if exceeding Two Acres, and not be Three Acres, then a Quit Rent of Three Shillings, and so in proportion for any greater Quantity; which said annual Sums shall be paid on the Twenty-ninth Day of *September* in every Year, and the same shall be recoverable by the Lord of the said Manor by the same Means as Quit Rents payable for other Freehold Lands within the said Manor are recoverable, and no other Rent whatsoever shall be paid for the said Lands so to be inclosed as aforesaid; and a Relief of Twenty-one Shillings for every Allotment over and above an Acre on Death or Alienation; and if exceeding Two Roods, and not exceeding an Acre, Ten Shillings and Sixpence.

A Rate to be
made if Piece
allotted for
Sale should
not be suffici-
ent to defray
the Expences.

XXIX. And in case the Land offered for Sale should be insufficient for the intended Purposes, be it further enacted, That the said Commissioners shall and they are hereby authorized and empowered to levy and raise a Rate or Rates for the Residue of the Costs, Charges, and Expences (if any) of obtaining this Act and carrying the same and the said recited Act into Execution upon the several Persons interested in this Act, according to their respective Rights and Interests, as Owners, Lessees, or Tenants in the said Commons and Waste Lands; and the said Commissioners are hereby authorized and empowered to levy and recover the same in the Manner directed by this and the said recited Act.

Surplus.

XXX. Provided always, and be it further enacted, That in case any Part or Parts of the said Commons and Waste Lands so directed to be sold as aforesaid, shall be sold for more Money than will be required to defray such Charges and Expences as aforesaid, then and in such Case the Surplus Money arising by such Sale shall be divided and apportioned
between

between the several Proprietors of the Lands and Tenements hereby directed to be divided and inclosed, according to their several and respective Interests therein, and paid to them, in case they shall be seised in Fee Simple of their several Allotments, or otherwise such Surplus Money shall be paid into the Bank of *England* in Manner directed by the said recited Act with respect to Money thereby directed to be paid into the Bank for the Purchase or Exchange of Lands, Tenements or Hereditaments, or 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.

XXXI. And be it further enacted, That the Money which shall be advanced by any Person or Persons for the Purpose of applying for and carrying this and the said recited Act into Execution, shall be repaid with lawful Interest, to such Person or Persons, out of the first Money to be raised, as herein-before mentioned.

Persons advancing Money for the Act to be repaid with Interest.

XXXII. And be it further enacted, That out of the Money which shall be raised as herein-after mentioned, for defraying the Expences of obtaining, passing, and executing this Act, there shall be paid to each of the said Commissioners, and to the Umpire and Surveyor, and also to the Person who shall act as Clerk to the said Commissioners, as a Recompence for their Pains and Trouble, the Sum of Two Pounds and Two Shillings each, for every Day they shall be employed in attending the Execution of this Act, and in travelling to and from such Meetings, together with all travelling and other Expences which the said Commissioners and their Clerk shall actually pay on account thereof.

Allowance to the Commissioners, Umpire, Surveyor, and Clerk.

XXXIII. And be it further enacted, That previous to the Execution of their Award, the said Commissioners shall and they are hereby required to make a just and true Statement or Account of all Sums of Money by them received and expended, and 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 some One or more of His Majesty's Justices of the Peace for the said County of *Essex*, 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 to the said Commissioners, and no Charge or Item in such Statement or Account shall be binding on the Parties concerned, or valid in the Law, unless the same shall have been duly allowed by such Justice or Justices.

Commissioners to lay their Accounts before a Justice, previous to Execution of Award.

XXXIV. And be it further enacted, That the Award to be made by the said Commissioners, when inrolled in the Manner directed by the said recited Act, together with a Plan of the said Commons and Waste Lands annexed thereto, shall be deposited in a Tin Case or Box in the Parish Church of *Great Bentley* aforesaid.

For depositing the Award, &c.

XXXV. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any Thing done or omitted to be done in pursuance of the said recited Act or this Act, then and in such Case (except where the Orders and Determinations of the said Commissioners, or the said Umpire and One of the said Commissioners,

Allowing an Appeal to the Quarter Sessions.

[*Loc. & Per.*]

32 H

are

are by the said recited Act or this Act declared to be final and conclusive, and except in such Cases wherein an Issue at Law shall be tried as hereinbefore mentioned), he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the said County of *Essex* within Four Calendar Months next after such Cause of Complaint shall have arisen, on giving to the said Commissioners and to the Party or Parties concerned, (in case the Appeal shall be made against any Act or Determination of the said Commissioners), Twenty-one Days Notice in Writing of such Appeal and of the Matter thereof; and the Justices at the said Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and to award such Costs as they may think reasonable, and to direct the levying the Costs 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, 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.

General
Saving.

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

Act to be
printed by
the King's
Printer.

XXXVII. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty, duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices and others.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1812.