ANNO QUINQUAGESIMO SECUNDO

GEORGII III. REGIS.

Cap. 9.

An Act for incloſing Lands in the Pariſh of *Erith* in the County of *Kent*. [5th *March* 1812.]

WHEREAS there are within the Pariſh of *Erith* in the County of *Kent*, certain Heaths, Commons, and Waſte Grounds, containing together in the whole by Eſtimation Two hundred Acres or thereabouts: And whereas *William Wheatley* Eſquire claims to be Lord of the Manor of *Erith*, and as ſuch doth claim to be entitled to or intereſted in the Soil of the Commons and Waſte Grounds within the ſame: And whereas *William Draper Beſt* Eſquire is Patron of the Vicarage of *Erith* aforeſaid; and the Reverend *Richard Davies* Clerk is the Vicar thereof, and as ſuch is entitled to certain Glebe Lands, and to the Small Tythes growing, renewing, or ariſing within the ſaid Pariſh of *Erith*: And whereas the ſaid *William Draper Beſt* is Impropriator of the Great Tythes of the whole of the ſaid Pariſh of *Erith*, excepting the *Great Breach* Level; and *John Page* Eſquire is Impropriator of the Great Tythes of that Part of the ſaid Pariſh: And whereas the Right Honourable *Sampſon* Lord *Eardley*, the ſaid *William Wheatley*, the ſaid *William Draper Beſt*, *Samuel Hulſe* Eſquire, the ſaid *John Page*, and divers other Perſons, are reſpectively Owners and Proprietors of the Meſſuages, Cottages, Lands, and Hereditaments, ſituate, lying, and being within the Pariſh of *Erith* aforeſaid: And whereas the ſaid Heaths, Commons, and Waſte Grounds, in their preſent Condition, yield but little Profit to the ſeveral Perſons intereſted therein and entitled to the Feed thereof; and it would be very advantageous to them if the ſame were divided and incloſed, and ſpecific Shares thereof allotted to the ſeveral Owners thereof and the Perſons intereſted therein, in Proportion and according to their

reſpective Eſtates, Rights and Intereſts: But ſuch Diviſion, Allotment, and Incloſure, cannot be effected without the Aid and Authority of Parliament: 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*: 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 *William Cuſtance* of *Cambridge*, Gentleman, ſhall be and he is hereby appointed the Commiſſioner for dividing, allotting, and incloſing the ſaid Heaths, Commons, and Waſte Grounds, 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.

Appointment of Commiſſioner.

II. And be it further enacted, That if the ſaid *William Cuſtance* ſhall refuſe or become incapable to act as a Commiſſioner in the Execution of the ſaid recited Act and this Act, or ſhall die before all the Powers, Authorities and Truſts, repoſed and veſted in him ſhall be fully executed, the Lord or Lady of the ſaid Manor, and the ſeveral Owners and Proprietors of Meſſuages, Lands and Hereditaments, in *Erith* aforeſaid, or the major Part of them in Value, according to the Land Tax Aſſeſſment, who ſhall be preſent in Perſon or by their reſpective Attornies or Agents at a Meeting to be held for that Purpoſe, within Forty Days after ſuch Death, Refuſal, or Incapacity to act, of which Meeting Notice ſhall be given in Writing by any Two or more of ſuch Owners and Proprietors, or their reſpective Attornies or Agents, by affixing ſuch Notice on the Door of the Pariſh Church of *Erith* aforeſaid, and cauſing the ſame to be inſerted in *The Kentiſh Chronicle* or *Maidſtone Journal*, or ſome other Newſpaper then printed or circulated in the ſaid County of *Kent*, Ten Days at leaſt before ſuch Meeting, ſhall and may by Writing under their Hands nominate and appoint a proper Perſon (not being intereſted in the Premiſes, and not being the Attorney or Agent of any Perſon intereſted therein) to be a Commiſſioner in the Place and Stead of the ſaid *William Cuſtance*, and to make the like Appointment when and ſo often as any Perſon ſo to be appointed a Commiſſioner in the Place of the ſaid *William Cuſtance* ſhall die, or refuſe or become incapable to act as aforeſaid; and every Perſon ſo to be appointed as aforeſaid ſhall take and ſubſcribe the Oath or Affirmation preſcribed in the ſaid recited Act, and ſhall thereupon have ſuch and the like Powers and Authorities in all reſpects for putting the ſaid recited Act and this Act into Execution, as if he had been hereby named and appointed the Commiſſioner for that Purpoſe.

For appointing new Commiſſioner.

III. And be it further enacted, That the ſaid Commiſſioner and his Clerk ſhall be allowed and paid the Sum of Three Guineas, for each and every Day they or either of them ſhall be actually employed in the Execution of this or the ſaid recited Act, or in travelling to or from the Place of Meeting for that Purpoſe, in full Satisfaction for their Time and Trouble in the Execution of this Act, and that at all Meetings the ſaid Commiſſioner and Clerk ſhall defray their own Expences.

Directing what Allowance ſhall be made to the Commiſſioner and Clerk for their Time and Trouble.

Notice of Commissioner's Meeting.

IV. And be it further enacted, That the said Commissioner shall and he is hereby required to cause Notice in Writing of the Time and Place of his First and of every other Meeting, for the Execution of the said recited Act and this Act, to be inserted in *The Kentish Chronicle* or *Maidstone Journal*, or in some other Newspaper printed or circulated within the said County of *Kent*, Eight Days at least before every such Meeting (Meetings by Adjournment excepted): Provided always, that all other Notices necessary or requisite to be given by the said Commissioner in pursuance of the said recited Act or this Act, shall be so given by Advertisement in the said *Kentish Chronicle* or *Maidstone Journal*, or in some other Newspaper printed or circulated within the said County of *Kent*; and all the Meetings of the said Commissioner for the Execution of the said recited Act and this Act, shall be held within the Parish of *Erith* aforesaid, or in some Place within the Distance of Eight Miles from the said Parish.

Other Notices how to be given.

Commissioner to settle Differences.

V. And be it further enacted, That if any Dispute or Difference shall arise between any of the Parties interested or claiming to be interested in the said intended Division and Allotments, touching or concerning the respective Rights and Interests, which they or any of them shall claim to have, of, in, to, or upon the Lands hereby directed to be divided and allotted, or touching or concerning any other Matter or Thing whatsoever, it shall be lawful for the said Commissioner, and he is hereby authorized and required to examine into, hear, and determine the same: Provided always, that nothing herein contained shall authorize the said Commissioner to determine the Title to any Lands, Tenements, or Hereditaments, whatsoever.

Commissioner may award Costs.

VI. And be it further enacted, That in case the said Commissioner shall, upon the Hearing and Determination of any Claim or Objection to be delivered to him in pursuance of the said recited Act, see Cause to award any Costs, it shall be lawful for the said Commissioner, and he is hereby empowered, upon Application made to him for that Purpose, to settle, assess, and award such Costs as he shall think reasonable to be paid to the Party or Parties in whose Favour any Determination of the said Commissioner shall be made, by the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, whose Claim or Objection shall be thereby disallowed or over-ruled; or against whom the said Commissioner shall have determined as aforesaid; and in case the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, who shall be liable to pay such Costs, shall neglect or refuse to pay the same upon Demand, it shall be lawful for the said Commissioner, and he is hereby authorized and required, by Warrant under his Hand and Seal directed to any Person or Persons whomsoever, to cause such Costs to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, so neglecting or refusing to pay the same, rendering the Overplus (if any) upon Demand, to the Person or Persons, 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.

VII. Provided

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

VII. 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 Commissioner, touching or concerning any Property, Right or Interest, intended to be affected by such Determination, and shall, within One Calendar Month next after such Determination, cause Notice in Writing of such Dissatisfacton to be delivered to or left at the usual Place of Abode of the said Commissioner, and of the Party or Parties in whose favour such Determination shall be made, or his, her, or their Agents, it shall be lawful for such Person or Persons, Body or Bodies Politic, Corporate or Collegiate, giving such Notice as aforesaid, to proceed to a Trial at Law of the Matter so determined by the said Commissioner, at the then next Assizes to be held for the said County of *Kent*, unless such Assizes shall happen within Three Calendar Months next after the Determination of the said Commissioner, and in that case at the Second Assizes to be held for the said County next after such Determination; and for that Purpose the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, giving such Notice as aforesaid, shall, within Two Calendar Months next after such Determination, cause an Action to be brought in one of His Majesty's Courts of Record at *Westminster*, upon a feigned Issue, against the Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, in whose favour such Determination shall have been made; and the Defendant or Defendants in such Action or Actions shall, and he, she, 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, and the Right or Interest thereby insisted upon may be tried and determined, (such Issue or Issues to be settled by the proper Officer of the Court in which the said Action shall be commenced, in case the Parties shall differ about the same); and the Verdict which shall be given upon the Trial of such Action, shall be binding, final and conclusive, unless the Court wherein such Action shall be brought shall set aside such Verdict, and order a new Trial to be had therein, which it shall and may be lawful for the said Court to do, in case the said Court shall think proper; and that after such Verdict shall be obtained, and not set aside by the said Court, the said Commissioner shall and he is hereby required to act in conformity thereto, and to allow or disallow the Claim thereby determined, according to the Event of such Trial or Trials: Provided always, that if no such Notice shall be given, and such Action at Law shall not be commenced, as aforesaid, or if any such Action shall be commenced, and the Plaintiff or Plaintiffs therein shall not proceed to Trial within the Time herein-before limited for that Purpose, then and in every such Case the Determination of the said Commissioner shall be final, binding, and conclusive, to all Intents and Purposes whatsoever: Provided also, that no Difference or Suit touching the Matters aforesaid, shall impede or delay the Commissioner in the Execution of the Power vested in him by this Act; but the Inclosure, Division, and Allotment hereby directed to be made shall be proceeded in, notwithstanding such Differences or Suits: Provided also, 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.

If no Action brought or not proceeded in, the Determination of the Commissioner to be final.

VIII. Provided

VIII. 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 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, Corporate or Collegiate, who might have brought ſuch Action or Actions againſt the Perſon or Perſons ſo dying, to bring the ſame within the Time ſo limited as aforeſaid, againſt ſuch Perſon or Perſons as if actually living, and to ſerve the Clerk of the ſaid Commiſſioner 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 thereon alſo 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 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.

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

IX. Provided alſo, and be it further enacted, That nothing in this Act contained ſhall extend to enable the ſaid Commiſſioner to determine any Right between any Parties, contrary to the Poſſeſſion of any of ſuch Parties, (except in Caſes of Encroachments hereby otherwiſe provided for); but in caſe the ſaid Commiſſioner ſhall be of Opinion againſt the Rights of the Perſon or Perſons ſo in Poſſeſſion, he 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.

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

X. And be it further enacted, That it ſhall and may be lawful for the ſaid Commiſſioner, and he is hereby authorized, at any Time or Times before the Execution of his Award, by Writing under his Hand, to be affixed upon the Door of the Church of *Erith* aforeſaid, to order and direct all or any Commonable Rights in, over and upon the ſaid Commons and 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 Writing, and ſuch Rights ſhall be extinguiſhed or the Exerciſe thereof ſhall be ſuſpended accordingly; any Law, Uſage, or Cuſtom to the contrary notwithſtanding.

For extinguiſhing or ſuſpending Rights of Common before the Award.

XI. And be it further enacted, That it ſhall not be lawful for any Perſon, from and after the paſſing of this Act, to cut, dig, pare, grave, flay or carry away any Turf, Flags, Whins or Furze, in, upon, or from the ſaid Commons and Waſte Grounds, or any Part thereof, without the Licence of the ſaid Commiſſioner firſt had and obtained in Writing, for that Purpoſe, (which Licence the ſaid Commiſſioner is hereby empowered to grant under ſuch Regulations as he ſhall think proper to inſert therein); and if any Perſon ſhall, after the paſſing of this Act, cut, dig, pare, grave, flay or carry away any Turf, Flags, Whins or Furze, in, upon, or from the ſaid Commons and Waſte Grounds, or any Part thereof, without ſuch Licence as aforeſaid, or having obtained ſuch Licence ſhall act in any Manner contrary to the ſame, the ſaid Commiſſioner

No Turf, Flags, Whins, or Furze to be cut after paſſing of this Act, without Leave of the Commiſſioner.

missioner upon due Proof thereof made before him upon Oath, (which Oath the said Commissioner is hereby empowered to administer), shall and is hereby required, by Warrant under his Hand and Seal directed to any Person whomsoever, to cause any Sum of Money not exceeding Ten Pounds to be levied by Distress and Sale of the Goods and Chattels of the Person offending in the Premises, rendering the Overplus (if any) upon Demand, to the Person whose Goods and Chattels shall have been so distrained and sold, after deducting the Costs and Charges attending such Distress and Sale; and the Monies so to be levied as aforesaid, shall be applied towards defraying the Costs and Charges of obtaining, passing, and executing this Act.

For shortening the Boundary Fences against adjoining Parishes.

XII. And be it further enacted, That if the said Commissioner shall deem it expedient or proper to shorten the Boundary Fences between the Lands and Grounds hereby authorized to be divided, allotted and inclosed, and any Parish or Parishes adjoining thereto, or to make the same Boundary Fences respectively regular, it shall be lawful for the said Commissioner, with the Consent in Writing under the Hand or Hands of the Lord or Lady of the Manor or Manors in which the Land is situate, and the Owner or Owners of the Land upon which any Fence or Fences shall or may be intended to be made, to set out the Boundary between the Lands and Grounds hereby directed to be divided, allotted and inclosed, and any adjoining Parish or Parishes, in such Manner as he shall judge proper for the Purpose aforesaid; and after such Boundaries shall be so set out as aforesaid, the same shall be fenced by such Person or Persons, in such Manner and at such Time or Times as the said Commissioner shall direct, and shall for ever thereafter be deemed and taken to be the Boundaries between the Parish of *Erith* aforesaid, and such adjoining Parish or Parishes respectively; any Law, Usage, or Custom to the contrary notwithstanding.

Encroachments within Twenty Years to be deemed Part of the Waste.

XIII. And be it further enacted, That all Encroachments which at any Time within Twenty Years now last past have been made upon the said Common Lands and Waste Grounds, shall be deemed Part thereof, and shall be divided and allotted accordingly.

Encroachments to be allotted in certain Cases to the Owners of the Lands adjoining.

XIV. Provided nevertheless, and be it enacted, That such of the said Encroachments as adjoin to or abut upon any Lands or Tenements having Right of Common upon the Lands or Grounds hereby intended to be divided and inclosed, shall be allotted to the Owner or Owners of such adjoining Lands, either as the whole or Part of the Share or Proportion to which he, she or they will be entitled by virtue of this Act; and in case any such Encroachments shall in the Judgment of the said Commissioner be of greater Value than his, her, or their Share and Proportion of the said Commons and Waste Grounds, then the Person or Persons to whom such Encroachments shall be allotted, shall pay to the said Commissioner at or within such Time as he shall appoint, such Sum of Money as the said Commissioner shall adjudge to be the Value of such Encroachments, over and above the Value of the Allotments to which such Person or Persons shall be entitled, and the same shall be applied towards Payment of the Expences of obtaining and executing this Act.

XV. Provided

Those of Twenty Years ſtanding not to be deemed Part thereof.

XV. Provided always, and be it further enacted, That no Inclоſure or Encroachment which ſhall have been made from or upon the ſaid Common Lands and Waſte Grounds, or any Part or Parts thereof, for Twenty Years or upwards antecedent to the paſſing of this Act, or which ſhall have been made with the Conſent of the Perſon or Perſon entitled to the Right of Soil of the ſeveral Common Lands and Waſte Grounds to be incloſed under this Act, ſhall be thrown open or divided, allotted or incloſed, under the Proviſions of this preſent Act or the ſaid recited Act; nor ſhall any ſuch Incloſure or Encroachment as laſt aforeſaid, nor the Buildings or other Erections thereupon, be conſidered as forming Part of the ſaid Commons and Waſte Lands, nor ſhall the Title or Titles derived under ſuch Incloſure or Encroachment be diſturbed.

Commiſſioner to determine the Date of the Encroachments.

XVI. And be it further enacted and declared, That if any Diſpute ſhall ariſe as to the Space of Time during which the before mentioned Incloſures or Encroachments ſhall have been made or ſubſtituted, the ſame ſhall be determined by the ſaid Commiſſioner.

Old Roads to be continued until the new Roads are made.

XVII. And be it further enacted, That none of the preſent public Highways or Roads within the ſaid Pariſh of *Erith* ſhall be ſhut up or diſcontinued, until the Roads intended to be and remain public Highways within the ſame Pariſh ſhall be ſet out according to the Directions of the ſaid recited Act, and until the ſame ſhall be properly formed and made ſafe and convenient for Horſes, Cattle, and Carriages: Provided alſo, that all private Roads, Ways and Footpaths, which ſhall be ſet out and appointed by the ſaid Commiſſioner, ſhall be made and for ever maintained and kept in Repair by ſuch Perſons, in ſuch Manner, and at ſuch Time or Times, as the ſaid Commiſſioner ſhall by his Award, or any other Writing under his Hand, order, direct, or appoint.

The Expences of the Act to be raiſed by Sale.

XVIII. And be it further enacted, That the Charges and Expences of obtaining, paſſing and executing this Act, or ſuch Part or Parts thereof as the ſaid Commiſſioner ſhall direct, and alſo any other Monies required or authorized to be paid by the ſaid Commiſſioner or otherwiſe for the Purpoſes of this Act, and of carrying the ſame into Execution, ſhall and may ſubject as herein-after mentioned, be raiſed by Sale of ſuch Part or Parts of the ſaid Common Lands hereby directed to be divided, allotted and incloſed, as the ſaid Commiſſioner ſhall in his Judgment think moſt proper, in the Manner, and with, under, and ſubject to the Powers, Rules, Orders and Regulations reſpectively expreſſed and contained in the ſaid recited Act of the Forty-firſt Year of His ſaid preſent Majeſty.

Application of Surplus Money, if any.

XIX. And be it further enacted, That in caſe any Surplus ſhall remain in the Hands of the ſaid Commiſſioner of the Monies hereby authorized to be raiſed by him, after anſwering the ſeveral Purpoſes aforeſaid, ſuch Surplus Money ſhall be divided and apportioned between the ſeveral Proprietors of the Lands and Grounds hereby directed to be divided and incloſed, according to their ſeveral and reſpective Intereſts therein, and ſuch proportional Parts and Shares of ſuch Surplus Money, ſhall be paid to thoſe Proprietors who are Tenants in Fee Simple of the Eſtates in Right of which they ſhall be entitled to ſuch Surplus Monies; but the Surplus Money to which any Proprietor not being Tenant in Fee Simple may be entitled, ſhall be applied and diſpoſed of in the ſame Manner as any Money to be paid for the Purchaſe or Exchange of

Lands, Tenements or Hereditaments, or of any Timber or Wood growing thereon (and which Money ought to be laid out in the Purchaſe or Exchange of other Lands, Tenements or Hereditaments to be ſettled to the ſame Uſes), is by the ſaid recited Act directed to be applied and diſpoſed of.

Allotment for Right of Soil and Reſidue.

XX. And be it further enacted, That the ſaid Commiſſioner ſhall and he is hereby authorized and required, to the beſt of his Skill and Judgment (after deducting ſuch Part and Parts of the ſaid Waſte Lands and Commons, as he may, in purſuance of this Act and the ſaid recited Act, think proper to ſet out for the public Highways, Roads and Drains, and alſo ſuch Parts as may be directed to be ſold for defraying the Expences of this Act, and other incidental Expences as aforeſaid) to ſet out, allot and award to and for the Uſe of the Perſon or Perſons entitled to the Right of Soil of the Waſte Lands and Commons to be incloſed under this Act, as a Compenſation for the Soil of the ſaid Waſte Lands and Commons to which he or they is or are entitled as Lord of the ſaid Manor of *Erith*, One Sixteenth Part of all the Reſidue of the ſame Waſte Lands and Commons, over and above and excluſive of ſuch Share or Allotment of the ſame Waſte Lands and Commons, or the Reſidue thereof, as is herein-after directed to be allotted to him in lieu of and as an Equivalent for his Right of Common thereon; and after making ſuch Deduction as aforeſaid, and after ſuch Parts of the whole Reſidue of the ſaid Waſte Lands and Commons ſhall have been ſet out and allotted in Manner as aforeſaid, he the ſaid Commiſſioner ſhall and he is hereby authorized and required to ſet out, allot, apportion and divide, all the Reſidue or remaining Parts of the ſaid Waſte Lands and Commons, unto and amongſt the ſaid *William Wheatley*, the ſaid *Sampſon* Lord *Eardley*, and the ſeveral other Perſons having any Right of Common upon ſuch Waſte Lands and Commons, in Proportion to their ſeveral and reſpective Claims, and without any Preference or Priority whatſoever.

Directions reſpecting Leſney Heath.

XXI. Provided always, and be it hereby enacted, That it ſhall be lawful for the ſaid Commiſſioner, and he is hereby authorized and required to leave open and unincloſed One-fifth Part in Quantity of a certain Heath, called *Leſney Heath*, and to ſelect ſuch Part or Parts of the ſaid Heath for that Purpoſe, and to give ſuch Directions touching the Management, Uſe, Diſpoſal or Enjoyment of the ſame, as he ſhall in his Judgment and Diſcretion think fit; and that the ſaid Commiſſioner ſhall, if thereunto requeſted by the ſaid *Sampſon* Lord *Eardley*, his Heirs or Aſſigns, ſet out and allot from the ſaid laſt-mentioned Heath, to the ſaid *Sampſon* Lord *Eardley*, his Heirs or Aſſigns, the Share or Proportion to which he or they will be entitled by virtue of this Act; and ſhall alſo, at the like Requeſt, ſell to the ſaid *Sampſon* Lord *Eardley*, his Heirs or Aſſigns, for ſuch Sum or Sums of Money as in the Judgment of the ſaid Commiſſioner ſhall be its full and utmoſt Value, the whole or ſo much of the Reſidue of the ſaid Heath as will raiſe the Monies required to defray the Expences of obtaining and executing this Act.

The Commiſſioner may make Compenſation for ſmall Allotments in Money.

XXII. Provided always, and be it further enacted, That in caſe any Perſon or Perſons ſhall be deſirous of receiving a Compenſation in Money for his, her, or their Rights and Intereſt in the ſaid Common Lands, in lieu of ſuch Allotment in reſpect thereof as herein-before provided, and

ſhall

ſhall ſignify ſuch Deſire to the ſaid Commiſſioner by Writing under his, her, or their Hand or reſpective Hands, prior to any ſuch Allotment being made as laſt aforeſaid, and within ſuch Time as the ſaid Commiſſioner ſhall appoint for that Purpoſe, then and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby required to eſtimate what Sum or Sums of Money ought to be awarded and allowed to ſuch Perſon or Perſons as and for ſuch Compenſation as aforeſaid; and in every ſuch Caſe it ſhall and may be lawful to and for the ſaid Commiſſioner, and he is hereby required to pay the Sum or Sums ſo to be eſtimated to the Perſon or Perſons entitled thereto in Fee Simple, by and out of any Monies which ſhall come to his Hands for the General Purpoſes of this Act; and the Shares of the others of the ſaid Perſons reſpectively ſhall be paid into the Bank of *England*, in the Manner directed by the ſaid recited Act, with reſpect to Money to be paid for the Purchaſe of Lands, Tenements, or Hereditaments, or of any Timber or Wood growing thereon, and which Money ought to be laid out in the Purchaſe of other Lands, Tenements, or Hereditaments, to be ſettled to the ſame Uſes.

Allotments to be marked on a Plan and ſhewn to the Proprietors.

XXIII. And be it further enacted, That the ſaid Commiſſioner, when and ſo ſoon as he ſhall have aſcertained the Rights and Intereſts of the ſeveral Parties entitled to and intereſted in the Lands hereby directed to be divided and allotted, ſhall cauſe the ſeveral Allotments propoſed to be made by him to be diſtinctly laid down and delineated upon a Map or Plan, which ſhall be produced at a convenient Time and Place to be appointed by the ſaid Commiſſioner, and publiſhed in the before-mentioned Newſpapers, or One of them, for the Inſpection and Examination of the ſeveral Parties intereſted in the ſaid Allotments; and in caſe any Objection or Objections ſhall be made to the propoſed Allotments, the Party or Parties making the ſame ſhall ſign and deliver a Statement thereof in Writing to the ſaid Commiſſioner, at ſuch Time and Place as he ſhall appoint; and the ſaid Commiſſioner ſhall immediately, or within a convenient Time afterwards, take the ſame into his Conſideration, and determine the Matter thereof; and the Determination of the ſaid Commiſſioner, with reſpect to ſuch Allotments, ſhall be final, binding, and concluſive.

Sale of Allotment before Award.

XXIV. 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 Commiſſioner ſell, his or her Right, Intereſt, or Property, in, over, or upon the ſaid Heaths, Commons, and Waſte Grounds, or any Part thereof, to any other Perſon or Perſons, then and in every ſuch Caſe it ſhall be lawful for the ſaid Commiſſioner, and he is hereby directed, authorized, and required, to make an Allotment of Land unto the Vendee or Purchaſer in ſuch Sale, or to his, her, or their Heirs or Aſſigns, for or in reſpect of ſuch Right, Intereſt, and Property ſo ſold; and every ſuch Vendee or Purchaſer, and his and their Heirs and Aſſigns, ſhall and may, from and after the Execution of the ſaid Award, hold and enjoy the Land ſo to be allotted to him, her, or them as aforeſaid, in the ſame Manner, to all Intents and Purpoſes, as the Vendor in every ſuch Sale 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.

Separate Allotments to be made for Eſtates held under different Titles.

XXV. And be it further enacted, That in caſe any Proprietor or Proprietors of any Meſſuages, Lands, or Tenements, within the Pariſh of *Erith*, ſhall hold the ſame by different Tenures or for different Eſtates, or in different Rights, or under different Titles, the ſaid Commiſſioner ſhall, upon the Requeſt of any ſuch Proprietor or Proprietors, aſcertain and diſtinguiſh the Meſſuages, Lands, and Tenements held by each of ſuch Tenures for each of ſuch Eſtates, and under each of ſuch Rights or Titles reſpectively, and ſhall accordingly, in his ſaid Award, aſſign, ſet out, and allot, diſtinct and ſeveral Allotments, by diſtinct and ſeveral Deſcriptions, for ſuch reſpective Meſſuages, Lands, or Tenements, and ſhall declare in Right of what Eſtate or Eſtates ſuch Allotments reſpectively ſhall have been made; and in caſe the ſaid Commiſſioner, from want of neceſſary Information or from any other Cauſe, ſhall not diſcriminate and diſtinguiſh ſuch different Rights or Titles, different Eſtates, and different Tenures in his Award, it ſhall be lawful for him at any Time, within Twelve Calendar Months after the Execution of the ſaid Award, upon the Requeſt in Writing of any Perſon or Perſons intereſted, to do and cauſe to be done all proper and neceſſary Acts for the Purpoſe of enabling him to make ſuch Diſcrimination and Diſtinction as aforeſaid, in the ſame Manner as he might or could have done by his ſaid Award; and when and ſo ſoon as the ſaid Commiſſioner ſhall have obtained ſufficient Information for the Purpoſe, by any Deed or Inſtrument in Writing under his Hand and Seal, to aſcertain and diſtinguiſh the Difference of ſuch Tenures, Eſtates, Rights, and Titles reſpectively, and ſhall make diſtinct and ſeveral Allotments in the ſame Manner as he is hereby authorized to do by his ſaid Award; and every ſuch Deed or Inſtrument ſhall have the ſame Force and Effect as if the ſame was contained in the ſaid Award, and ſhall be delivered to the Perſon or Perſons upon whoſe Requeſt the ſame ſhall have been executed, or to the Perſon or Perſons to whom the Cuſtody of the Deeds and Writings concerning the Title to the Premiſes in Queſtion ſhall, in the Opinion of the ſaid Commiſſioner, properly belong for the Time being, and the Coſts, Charges, and Expences, which ſhall be occaſioned by the Proceedings of the ſaid Commiſſioner, in making ſuch Diſcrimination, Diſtinction, and Allotment or Allotments, and of preparing and executing any ſuch Deed or Inſtrument, or in anywiſe relating thereto, ſhall be aſcertained and ſettled by the ſaid Commiſſioner, and ſhall be paid by the Perſon or Perſons who ſhall make ſuch Requeſt as aforeſaid, or his, her, or their Heirs, Executors, or Adminiſtrators, to ſuch Perſon, and at ſuch Time and Place, as the ſaid Commiſſioner ſhall by Writing under his Hand appoint; and in caſe ſuch Coſts, Charges, and Expences, ſhall not be ſo paid, it ſhall be lawful for the ſaid Commiſſioner, and he is hereby required to raiſe and levy the ſame by ſuch Ways and Means as the Coſts, Charges, and Expences of obtaining this Act, and executing the ſaid recited Act and this Act, can or may be raiſed and levied.

Allotments ſhall be of the ſame Tenure as the Lands for which they are alloted.

XXVI. And be it further enacted, That the Allotments which ſhall be made under the Proviſions of this Act and the ſaid recited Act, ſhall, from and after the Execution of the Award of the ſaid Commiſſioner, and thenceforth for ever, be deemed and taken to be held by and under the ſame Tenures, Rents, Cuſtoms, and Services, as the Property in reſpect of which ſuch Allotments reſpectively ſhall be made, was held and enjoyed before the paſſing of this Act, or would have been held in caſe

caſe this Act had not been made; and the ſeveral Lands and Grounds which in the Award of the ſaid Commiſſioner ſhall be declared to have been allotted in Right of Freehold Property, ſhall, from the making and Execution thereof, be deemed Freehold Lands, and ſhall thenceforth be held of the Lord of the Fee, under the ſame Rents, and by the ſame Services, as the Freehold Property in reſpect of which they were ſo allotted was held before that Time; and that the Lands which ſhall therein be declared to have been allotted in reſpect of any Buildings or Lands holden of any Manor or Manors by Copy of Court Roll, or for or in reſpect of any Leaſehold Buildings, or Lands, or for or in reſpect of any Right of Common, or other Right or Intereſt appurtenant or appendant to any ſuch Copyhold or Leaſehold Premiſes ſhall be deemed and taken to be Copyhold or Leaſehold, and ſhall be held as ſuch by and under the ſame Tenure and under ſuch cuſtomary Rents, Payments, Fines, and Services, as the Copyhold or Leaſehold Buildings or Lands reſpectively, for or in reſpect whereof ſuch Allotments ſhall be made are now held; and that all and every Perſon or Perſons to whom ſuch Copyhold Lands ſhall be allotted as aforeſaid, ſhall, within Six Calendar Months next after the Execution of the ſaid Award, be admitted Tenant or Tenants to the ſame, without paying any Fine or other Charge to the Lord or Lords, Lady or Ladies, or to the Steward or Stewards of the ſaid Manor or Manors, ſave and except for the Stamp Duties and Parchment requiſite to be uſed for the Copies of ſuch Admiſſions reſpectively, and ſuch reaſonable Fees to the reſpective Stewards of the ſaid Manors as the ſaid Commiſſioner ſhall by his ſaid Award order and direct; but in caſe the Perſon or Perſons to whom ſuch Copyhold Lands ſhall be allotted, ſhall not have been admitted to the Copyhold Lands and Hereditaments in lieu or in reſpect whereof ſuch Allotment or Allotments ſhall be made, or ſhall die without having been admitted to the Lands allotted in lieu or in reſpect of ſuch Copyhold Lands and Hereditaments, then the Cuſtomary Fines and other Payments ſhall be due and payable on the Admiſſion of the Perſon entitled to ſuch Lands ſo allotted as laſt aforeſaid; and after every ſuch firſt Admiſſion the Copyhold Premiſes ſo to be allotted as laſt aforeſaid, ſhall at all Times be held under and ſubject to the ſame Tenure, Fines, and other Payments, as the Copyhold Buildings or Lands in reſpect whereof ſuch Lands ſhall be allotted are now held under and ſubject to.

For allowing Exchanges to be made.

XXVII. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to ſet out, allot, and award, any Meſſuages, Buildings, Lands, Tenements, and Hereditaments, whatſoever, within the Pariſh of *Erith* aforeſaid, in lieu of and in Exchange for any other Meſſuages, Buildings, Lands, Tenements, or Hereditaments, within the ſame Pariſh, or within any adjoining Pariſh, Hamlet, Townſhip, or Place, provided that all ſuch Exchanges ſhall be aſcertained, ſpecified, and declared in the ſaid Award, and be made with the Conſent of the Proprietor or Proprietors of the Premiſes which ſhall be ſo exchanged, whether ſuch Proprietor or Proprietors ſhall be a Body or Bodies Politic, Corporate, or Collegiate, Corporation Aggregate or Sole, or a Tenant or Tenants in Fee Simple or for Life, or in Fee Tail General or Special, or by the Courteſy of *England*, or for Years determinable on any Life or Lives, or with the Conſent of the Guardians, Truſtees, or Feoffees, for Charitable, Parochial, or other Uſes, Huſbands, Committees, or Attornies, of

or acting for any such Proprietor or Proprietors, who at the Time of making such Exchange or Exchanges shall be respectively Infants, Femes Covert, Idiots, 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 made, shall be good, valid, and effectual in Law to all Intents and Purposes whatsoever: Provided nevertheless, that no Exchange shall be made of any Messuages, Buildings, Lands, Tenements or Hereditaments, held by the said Vicar of the said Parish of *Erith*, in Right of the said Vicarage, or of any Messuage, Buildings, Lands, Tenements or Hereditaments, held in Right of any other Ecclesiastical Benefice, without the Consent, testified as aforesaid, of the Lord Bishop of the Diocese in which such Messuages, Buildings, Lands, Tenements or Hereditaments, shall be situate, and of the Patron of such Ecclesiastical Benefice.

Expences of Exchanges.

XXVIII. And be it further enacted, That the Expences attending every Exchange or Partition of the Lands or Grounds by this Act intended to be divided, allotted and inclosed, which shall be made by virtue of this or the said recited Act, shall be borne and defrayed by the respective Parties making such Exchanges or Partitions, distinct and apart from the other Expences attending the Execution of this Act, in such Manner as the said Commissioner shall order and direct.

Wills and Settlements not to be affected.

XXIX. Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to revoke, make void, alter or annul, any Will or Settlement, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt or Incumbrance, out of, upon, or affecting any of the Lands to be divided or allotted by virtue of this Act, or any Part thereof, but that each and every Proprietor shall stand and be seised of the Lands to be allotted to him or her as aforesaid, to such and the same Uses, for such and the same Estates, and subject to such and the same Wills, Jointures, Rents and Charges, and no other, as the Buildings and Lands whereof such Proprietor was seised or possessed at or immediately before the Execution of the said Award, or for which or in respect whereof such Allotments shall be made would have been subject to, charged with, or affected by, in case this Act had not been passed.

Composition for the Tythes of Common Lands for the first Three Years.

XXX. And be it further enacted, That the said Lands hereby directed to be divided and allotted, or any Part thereof, shall not be liable or subject to the Payment of Tythes of any Kind whatsoever, either Great or Small, to the Rector or Vicar of the Parish of *Erith*, their or either of their Successors or Assigns, or any of them, during the Term of Three Years, to commence and be computed from the Day of the Date of the Award to be made in pursuance of this Act, but that the same or such Part thereof as is tytheable, shall be subject and liable to pay, during the said Term of Three Years, to the Rector or Vicar of the said Parish for the Time being, according to their respective Rights and Interests, as a Compensation for and in lieu of the Tythes thereof, the yearly Sums hereinafter mentioned; (that is to say), Two Shillings for every Acre by Admeasurement, and so in Proportion for a less Quantity than an Acre of the said

Lands

Lands which ſhall not be broken up or converted into Tilth, but ſhall remain as Paſture or Mowing Ground, and Five Shillings for every Acre by Admeaſurement, and ſo in Proportion for a leſs Quantity than an Acre of the ſaid Lands which ſhall be broken up or converted into Tilth, the Firſt Payment of which firſt-mentioned Compoſition ſhall be deemed to be due, and the ſame ſhall become payable on the Firſt Day of *January* next after the Date of the Award to be made purſuant to this Act, and the laſt-mentioned Compoſition ſhall be deemed to be due, and the ſame ſhall become payable on the Firſt Day of *January* next immediately after the Expiration of Two Calendar Months from the Time of breaking up or converting the Land into Tilth; and from and after the Expiration of the ſaid Term of Three Years, the ſeveral Allotments of the ſaid common Lands ſhall be ſubject and liable to ſuch Tythes, as the ſame would have been liable to in caſe this Act had not been made; provided, that nothing herein contained ſhall extend to charge with either of the ſaid Compoſitions, any other of the ſaid Lands, than ſuch as are now by Law chargeable with Tythes to the ſaid Rector or Vicar.

Commiſſioner to make Drains, &c.

XXXI. And be it further enacted, That it ſhall be lawful for the ſaid Commiſſioner to cauſe any Ditches, Fences, Drains, Brooks or Watercourſes, within the Pariſh of *Erith* aforeſaid, to be cleanſed, opened, ſcoured, widened, deepened or enlarged, and to ſtop up and diſcontinue any Ditches, Drains, Brooks or Watercourſes, which ſhall appear to the ſaid Commiſſioner to be unneceſſary; and alſo to cauſe any new Ditches, Fences, Banks, Bridges, Tunnels, Sluices, Drains, Brooks or Watercourſes, to be made within the ſame Pariſh, and to make ſuch Orders for maintaining ſuch Ditches, Fences, Bridges, Drains, Brooks or Watercourſes in Repair, as he ſhall think proper; provided, that no ſuch Works ſhall be made upon any incloſed Land without the Conſent in Writing of the Owner or Owners thereof, and that no Rivulet, Brook or Watercourſe, ſhall be diverted or turned from its preſent Courſe in, through, from, or over any incloſed Lands, without the Conſent in Writing of the Owner or Owners of the Land from which and into which any ſuch Rivulet, Brook or Watercourſe ſhall be diverted or turned, and carried or conveyed.

Tenants for Life empowered by Deed or Will to charge Allotments.

XXXII. And be it further enacted, That it ſhall be lawful for any Perſon or Perſons to whom any Allotment or Allotments ſhall be made by virtue of this Act, and who ſhall, under the Proviſions thereof, be a Tenant or Tenants of the Lands or Grounds ſo to be allotted in Fee-tail General or Special, or for Life or Lives, or for Years determinable on any Life or Lives, or any other Contingency, by any Deed or Deeds in Writing, or by his, her or their laſt Will and Teſtament in Writing, to be duly executed according to Law, to charge ſuch Allotment or Allotments with any Sum or Sums of Money for the incloſing, ditching, and fencing the ſame, not exceeding the Sum of Three Pounds for each Acre thereof, and by ſuch Deed or Deeds, or laſt Will and Teſtament, to direct and appoint the Money to be charged on ſuch Allotment or Allotments, to be paid to ſuch Perſon or Perſons as he, ſhe, or they ſhall think fit, with Intereſt for the ſame, to commence from the Day of the Death of the Perſon or Perſons ſo charging the ſame.

Persons advancing Money to be repaid with Interest.

XXXIII. And be it further enacted, That any Person or Persons who shall lend or advance any Sum or Sums of Money for defraying the Expences of applying for and obtaining and executing this Act, shall be repaid the same out of the Monies which shall be raised and collected in pursuance hereof, with Interest after the Rate of Five Pounds *per Centum per Annum* from the Time of advancing the same.

Expences of Meetings.

XXXIV. Provided always, and be it further enacted, That the said Proprietors, their Attornies and Agents shall pay and defray their own Charges and Expences, when they or any of them shall attend the said Commissioner at any of his Meetings to be held in pursuance of this Act.

Accounts how passed.

XXXV. And be it further enacted, That once at least in each and every Year during the Execution of this Act (such Year to be computed from the Day of passing thereof), the said Commissioner shall and he is hereby required to make a true and just Statement or Account of all Sums of Money by him received and expended, or due to him for his 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 laid by him before One of His Majesty's Justices of the Peace for the Time being of the said County of *Kent*, to be by him examined and balanced, and such Balance shall be by such Justice stated in the Book of Accounts kept in the Office of the Clerk to the said Commissioner; and no Charge or Item in such Accounts shall be binding on the Parties concerned, or valid in Law, unless the same shall have been duly allowed by such Justice.

Appeal to the Sessions.

XXXVI. And be it further enacted, That if any Person or Persons, or Body or Bodies Politic, Corporate or Collegiate, shall think himself, herself, or themselves aggrieved, by any Thing done or omitted to be done in pursuance of the said recited Act or this Act, (other than and except as to such Claims, Matters and Things, which shall be ascertained, settled, tried or determined by the Verdict of a Jury, under the Power and Authority herein-before contained; or where by any of the Provisions or Clauses of the said recited Act or this Act, the Determinations, Orders, Acts or Proceedings of the said Commissioner are declared or directed to be final and conclusive), then and in every such Case, he, she, or they may appeal to the Justices at the General Quarter Sessions of the Peace which shall be held for the said County of *Kent*, within Four Calendar Months next after the Cause of Complaint shall have arisen, on giving to the said Commissioner, and to the Party or Parties concerned, Ten Days Notice in Writing of such Appeal, and of the Matter thereof; and the Justices (not interested in the Premises) in their said General Quarter Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded, by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) upon Demand, to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of such Warrant, Distress and Sale; and the Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other

Writ or Proceſs whatſoever, in 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 ſufficient Foundation, then the ſaid Juſtices ſhall award ſuch Coſts to be paid by the Appellant or Appellants, as to the ſaid Juſtices in their Diſcretion ſhall ſeem reaſonable, and to be levied in Manner aforeſaid.

General Saving.

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

Act to be printed by the King's Printer.

XXXVIII. 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.

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Printers to the King's moſt Excellent Majeſty. 1812.