

and to appear and file Common Bail, and accept One or more Declaration or Declarations, and plead and proceed to Issue thereon, whereby such Claim or Claims, Objection or Objections, and the Rights or Interests thereby insisted upon, may be tried and determined at the First or Second Assizes to be held for the said County of *Northampton* next after the making of such Determination, such Issue or Issues to be settled by the proper Officer of the Court in which the said Action or Actions shall be commenced, in case the Parties shall differ about the same; and the Verdict or Verdicts which shall be given in such Action or Actions shall be final, binding, and conclusive upon all and every Person and Persons, 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 thereon, which it shall be lawful for the Court to do as is usual in other Cases; and after such Verdict or Verdicts shall be obtained, and not set aside by the Court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the Claim or Claims, Objection or Objections thereby determined according to the Event of such Trial or Trials.

Determination of Commissioners to be final if no Action brought.

Provided always, and be it further Enacted, That all such Determinations of the said Commissioners as shall have been so made as aforesaid with respect to such Claims or Objections, and concerning which no Action at Law shall be brought or commenced and proceeded in within the Time aforesaid, shall be final, binding, and conclusive upon all Persons whomsoever, any thing in this or the said recited Act contained to the contrary notwithstanding.

If Parties die, Proceedings not to abate.

Provided always, and be it further Enacted, That if any of the Parties in any such Action, to be commenced by virtue or 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.

Provision in Cases of Death of Parties before Actions brought.

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 hereinbefore limited for bringing such Action or Actions, it shall be lawful for the Person or Persons,
Body

Body or Bodies Politic or Corporate, who might have brought such Action or Actions against the Person or Persons so dying, to bring the same within the Time so limited as aforesaid against such Person or Persons as if actually living, and to serve the Clerk of the said Commissioners with Process for commencing such Action or Actions in the same Manner as the Party or Parties might have been served therewith if living; and it shall thereupon be incumbent on the Heir or Heirs, or other Person or Persons who shall claim the Benefit 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.

Provided also, and be it further Enacted, That nothing in this Act contained shall extend to enable the said Commissioners to determine any Right between any Parties contrary to the Possession of any of such Parties, except in Cases of Encroachments made within the Period of Twenty Years as hereinbefore mentioned; but in case the said Commissioners shall be of Opinion against the Rights of the Person or Persons so in Possession, they shall forbear to make any Determination thereupon until the Possession shall have been given up or recovered from such Person or Persons by Ejectment or other due Course of Law.

Rights of Possession of Persons not to be determined by Commissioners.

And be it further Enacted, That in case any public Carriage Roads or Highways shall be set out or continued in any Situation or Direction where any of the said Parishes are divided from any adjoining Parish, and where there now is and usually hath been a public Road or Meerway, and such adjoining Parish or Place hath hitherto been charged or liable to be charged with One Half Part of the Repair and Support of the said Road or Way, then and in such Case the said Commissioners shall and they are hereby authorized and required to set out so many Feet only, or so much Land from and out of the said Lands and Grounds hereby directed to be divided and inclosed, as will enlarge the Breadth of such Road or Way to Forty Feet at the least.

Roads dividing Parishes to be made up in the whole 40 Feet Broad.

And be it further Enacted, That in case it shall appear to the said Commissioners that there are or is any public Highways or Highway, Bridle-Roads or Bridle-Road, Footways or Footway in, through, over, or on the Sides of any of the old inclosed Lands

Commissioners may alter Roads through ancient Inclosures.

or other Lands within the said Parishes, which may in the Judgment of the said Commissioners be diverted and turned without Inconvenience to the Public into any other public Highways or Highway, Bridle-Roads or Bridle-Road, Footways or Footway, or be diverted or turned so as to make the same more convenient to the Public, or be stopped up and destroyed as superfluous and unnecessary, it shall be lawful for the said Commissioners, with the Concurrence of Two Justices, and on giving Notices subject to Objections or Appeal, as in the said recited Act is mentioned respecting the setting out, varying, and shutting up the public and private Carriage Roads, Bridle-Ways, and Footways, in and by their said Award to order and direct such public Highways or Highway, Bridle-Roads or Bridle-Road, Footways or Footway, to be altered, turned, stopped up, or discontinued, in such Manner as the said Commissioners shall think proper; and in case such Highways or Highway, Bridle-Roads or Bridle-Road, Footways or Footway, so to be diverted, turned, stopped up, or discontinued, do not pass through any of such old inclosed Lands or other Lands, but on the Sides of the same, to sell and dispose of the Lands and Soil of such Roads to the Person or Persons whose Lands lie contiguous thereto, or other Person or Persons who shall be willing to purchase the same, and apply the Money arising therefrom towards repairing the public Highways within the Parish in which the same lies.

Cattle not to be kept in Roads for a limited Time.

And be it further Enacted, That no Horses, Beasts, Affes, Sheep, Lambs, or other Cattle, shall at any Time within the first Ten Years after the said Allotments shall be directed to be entered upon by the respective Proprietors thereof, be kept in any of the public Carriage Roads or Ways to be set out and fenced off on both Sides, or Laned out in purtuance of this Act.

* Power to make Drains, &c.



And be it further Enacted, That the said Commissioners shall and may scour out, repair, and widen all ancient Brooks, Drains, Ditches, Watercourses, Tunnels, Water Gates, Sluices, Banks, Bridges, and other Requisites on, in, over, or upon the Lands and Grounds intended to be divided and inclosed; and also shall and may make, set out, and appoint such new Ditches, Drains, Watercourses, Tunnels, Water Gates, Sluices, Banks, and Bridges, as well in, through, and over the Lands and Grounds hereby intended to be divided and inclosed as aforesaid, as in, through, and over any ancient Inclosures or other Lands and Grounds within the said several Parishes, making Satisfaction to the Proprietor of such ancient Inclosures or other Lands and

and Grounds not hereby directed to be divided and inclosed, of such Depth and Breadth and in such Directions as the said Commissioners shall think fit; and the said Commissioners shall and may and they are hereby directed in and by their Award to appoint and order by whom, and at whose Expence, and at what Time, and in what Manner the said Brooks, Drains, Ditches, Watercourses, Tunnels, Water Gates, Sluices, Banks, Bridges, and other Requisites shall be made, and thereafter repaired, cleaned, scoured, and maintained; and also shall and may direct, order, and award all or any of the Streams, Springs of Water, and Watercourses within the said Open and Common Fields, Lands, or Grounds hereby directed to be divided and inclosed, or adjoining to the same, or in any inclosed Lands within the said several Parishes, to be conveyed, carried, or turned into such Courses, and through, over, and across such Parts of the Lands or Grounds hereby directed to be divided and inclosed, or any other Lands in the said Parishes, as they the said Commissioners shall in their Discretion judge proper for the Watering of the several Allotments to be made as aforesaid, or discharging such Streams, Springs of Water, or Watercourses to their Outfall by the River Welland, provided that no such Stream, Spring of Water, or Watercourse be diverted or turned without the Consent in writing of the Person or Persons from or out of whose Lands and of the Person or Persons through or into whose Lands respectively the same shall be diverted or turned; and that it shall also be lawful for the said Commissioners to open, cleanse, scour, and repair any ancient Ditch, Drain, or Watercourse in any other Parish, whereby the Water rising in or running from or through such other Parish, or over any Part of the Lands hereby directed to be divided, allotted, and inclosed, shall have heretofore usually passed and been conducted.

to be "turned"

Consent

And be it further Enacted, That it shall be lawful to and for the said Commissioners at any Time when they in their Judgment shall think it convenient and proper, by Notice for that Purpose under their Hands to be affixed on one of the outer Doors of each of the said Parish Churches or Chapels, on some Sunday immediately before Divine Service, to order the Right of Common in, upon, and over the Lands and Grounds hereby directed to be divided and inclosed, or any of them, to be extinguished, either in whole or in part, or to be suspended, and from and after the Time or Times to be mentioned in and appointed by any such Notice, all such Right of Common as shall

Commissioners may extinguish or suspend Rights of Common, and direct the Course of Hw/bandry.

therein be directed to be extinguished or suspended, shall be extinguished or suspended according to and as shall be expressed in and directed by such Notice; and until such Division and Allotment as is hereby directed shall have been made of the Lands and Grounds to be divided and allotted, all such Lands and Grounds shall be stocked with such Cattle, and at such Times and in such Manner only, and the Tillage Lands shall be sown by the respective Occupiers thereof, or by such other Persons as the said Commissioners shall appoint, with such sorts of Corn and Grain, and with such Kinds, Quantities, and Qualities of Grass, Turnips, and other Seeds, and shall be kept, ordered, and continued in such Course of Husbandry and Tillage as the said Commissioners shall by Writing under their Hands in that Behalf direct, any Usage or Custom to the contrary notwithstanding; and that the Charges and Expences of such Ploughing, Sowing, Fallowing, and Tilling, shall be paid by the respective Persons who shall receive the Benefit thereof, or by such other of the Proprietors of the said Open and Common Fields, and at such Times, in such Manner, and in such Proportions, as the said Commissioners shall by any Writing or Writings under their Hands direct or appoint, and shall be recovered in such Manner as the Expences of this Act are directed to be levied and recovered; and that no Meadow, Pasture, or fresh Ground, Part of the Lands and Grounds hereby directed to be divided and allotted, and not in Tillage at the Time of passing this Act shall be, without the Consent in writing of the said Commissioners before the Allotment thereof ploughed, broken up, or converted into Tillage; and every Occupier of any such Land or Ground who shall refuse or neglect to comply with any such Direction of the said Commissioners, or who shall plough, break up, or convert into Tillage any such Meadow, Pasture, or fresh Ground, without the Consent in writing of the said Commissioners, shall forfeit and pay any Sum not exceeding the Sum of Ten Pounds for every Acre of such Tillage Land with respect to which such Refusal or Neglect shall happen, and for every Acre of such Meadow, Pasture, or fresh Ground which shall be ploughed, broken up, or converted into Tillage, and so on in proportion in each Case for a greater or less Quantity than an Acre, which shall be paid and collected or levied and recovered as aforesaid.

Allotment
for Stone,
Gravel, and
Mortar Pits.

And be it further Enacted, That the said Commissioners shall set out, allot, and award unto the Surveyors of the Highways within each of the said Parishes respectively, such Parts of the
Lands

Lands and Grounds hereby directed to be divided and inclosed in each Parish respectively as the said Commissioners shall think necessary, not exceeding Three Acres in each of the said Parishes, as and for public Stone, Gravel, Sand, and Mortar Pits; and the same Allotments, when set out, shall for ever thereafter be used by the respective Surveyors of the Highways of the said several Parishes, and by the respective Proprietors and Occupiers of Lands, Tenements, and Hereditaments within each of the said Parishes for the Time being, in such Manner and under such Rules and Regulations as the said Commissioners shall by their Award, or by any other Writing or Writings under their Hands, direct or appoint; and that the Herbage thereof, and also of the public and private Roads, shall belong to and be the Property of such Person or Persons to whom the Commissioners shall allot and award the same.

And be it further Enacted, That the said Commissioners shall and may and they are hereby required in the next place to set out, allot, and award out of the Lands and Grounds hereby directed to be divided and inclosed in each Parish respectively, unto and for the several Rectors, Vicars, and Impropropriators, and the Lessee of the said Impropropriators respectively, and their Successors, Rectors, Vicars, and Impropropriators for the Time being, such Parcels of the Lands and Grounds hereby intended to be divided and inclosed in each Parish respectively, as in the Judgment of the said Commissioners shall be a full Equivalent and Compensation for the Glebe Lands and Rights of Common now respectively belonging to the said Rectors, Vicars, and Impropropriators.

Allotments to
Rectors, &c.
in lieu of
Glebe Land
and Right of
Common.

AND, in order to the making an adequate Compensation to the said several Rectors, Vicars, Impropropriators, and their Lessee, now the Tythe Owners, and their Successors, Rectors, Vicars, and Impropropriators, and Tythe Owners for the Time being, for the Great and Small Tythes arising and renewing within the said several Parishes, or the Tytheable Places of the same, and for Moduses, BE it further Enacted, That the said Commissioners shall and they are hereby authorized and required to set out, allot, and award, out of the Lands and Grounds hereby directed to be divided and inclosed in each Parish respectively, unto and for the said several and respective Rectors, Vicars, and Impropropriators, and their respective Successors, for and in lieu of all Tythes both Great and Small, and all Moduses, Compositions, or other Payments in lieu of Tythes and all other Ecclesiastical Dues and Payments whatsoever,

Allotment in
lieu of Great
and Small
Tythes.

whatsoever (except Easter Offerings, Mortuaries, and Surplice Fees) arising, growing, increasing, happening, or payable within the said several Parishes and every of them, such Parts and Parcels of the Lands and Grounds hereby directed to be divided and inclosed as in the Judgment of the said Commissioners shall be equal in Value to One Fifth Part of all the Arable Lands, One Eighth Part of all the known Grass Lands, and One Ninth Part of all the Wood Lands, and One Ninth Part of all the unknown Common and Waste Grounds within each Parish respectively, which are subject and liable to the Payment of Tythes in kind to the said respective Rectors, Vicars, and Impropropriators, and also equal in Value to such Moduses, Compositions, or other Payments in lieu of Tythes as aforesaid, if any, and which shall remain after the public and private Roads, and the Allotments for Stone, Gravel, Sand, Mortar Pits, Glebe Land, and Rights of Common hereinbefore directed to be made, shall have been set out and deducted.

Situations for
Parts of the
respective
Rectors, &c.
Allotments.

Provided always, and be it further Enacted, That the said Commissioners shall and they are hereby required, in making the said Division and Allotments, to set out and allot unto and for each of the said several and respective Rectors, Vicars, and Impropropriators aforesaid, and their respective Successors, not less than Fifteen Acres of the Lands and Grounds which shall be allotted to them respectively in lieu of Glebe or Tythes as aforesaid, as near to their respective Parsonage Houses as conveniently may be without Prejudice to the Rights of other Persons.

A Money
Payment to
be made in
lieu of
Tythes in
certain Cases.

And be it further Enacted, That in case there are any Homesteads, Gardens, Orchards, Homecloses, old Inclosures, or inclosed Lands and Grounds, in any of the said Parishes, subject or liable to the Payment of Tythes in kind, or to any Modus or Composition, or other Payment in lieu of Tythes (if any) or any other Ecclesiastical Dues or Payments, the respective Proprietors whereof shall not happen to be entitled to any or a sufficient specific Allotment to make Compensation for the same, such Proprietors shall respectively pay or cause to be paid unto such Person or Persons, and at such Time or Times as the said Commissioners shall direct or appoint, such Sum or Sums of Money as the said Commissioners shall adjudge and determine to be a full Compensation and Satisfaction for such Tythes, Moduses, Compositions, or other Payments in lieu of Tythes, or other Ecclesiastical Dues or Payments issuing or payable out of such Homesteads, Gardens, Orchards, Homecloses, old Inclosures, and old inclosed Lands

Lands and Grounds respectively, or for such Part thereof for which a Compensation in Land cannot be made by the Proprietors thereof as aforesaid; which Sum or Sums of Money shall be applied towards Payment of the Charges and Expences of obtaining and passing this Act, and carrying the same and the said recited Act into execution, and shall and may be raised, levied, and recovered in like Manner as the Charges and Expences of obtaining and passing this Act and carrying the same and the said recited Act into execution, are hereinafter directed to be raised, levied, and recovered; and if any Surplus shall remain after Payment of such Expences as aforesaid such Surplus shall be divided between the several Persons interested in the said Lands and Grounds in proportion to their respective Interests; and the Shares of such of the said Persons as shall be Tenants thereof in Fee Simple shall be paid to them respectively, and the Shares of the others of the said Persons shall respectively 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 or Exchange of Lands, Tenements, or other Hereditaments, or of any Timber or Wood growing thereon, where any such last-mentioned Money ought to be laid out in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the same Uses: Provided always, that in case any of the Proprietors of such old inclosed Homesteads, or other old Inclosed Lands, amounting altogether to Thirty Acres, shall be desirous of compensating for the Tythes of the same by Land instead of such Money Payment, and shall give Notice thereof to the said Commissioners, it shall and may be lawful for the said Commissioners and they are hereby required to set out such Compensation as aforesaid in Land, Part of such old Inclosure, and allot and award the same accordingly.

Provided always, and be it further Enacted, That it shall and may be lawful for the Husbands, Guardians, Trustees, Committees, or Attornies of any of the Owners or Proprietors of Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds, in any of the said Parishes, not having a sufficient Quantity of the Lands and Grounds hereby directed to be divided and inclosed, to discharge his, her, or their old Inclosures, from Tythes being under Coverture, Minors, Lunatics, beyond the Seas, or under any other Disability, or for any of the Owners or Proprietors being Tenants in Tail, or for Life or Lives, or for Years determinable on a Life or Lives, or on any other Contingency, or otherwise interested as aforesaid, to charge such Messuages,

Tenants for
Life, &c. of
old Inclosures
having no
open Field
Lands em-
powered to
charge their
Estates with
Money paid
for discharg-
ing the same
from Tythes.

suages, Cottages, Homesteads, Gardens, Orchards or inclosed Lands and Grounds with such Sum or Sums of Money as the said Commissioners shall by their Award, or any other Writing under their Hands previous thereto, declare to have been paid for the Discharge of the Tythes thereof, not exceeding in any Case Five Pounds an Acre, for every Acre of Land discharged from Tythes as aforesaid, and their respective Shares of the Charges and Expences incident to and attending the obtaining of this Act, and carrying the same into execution; and to grant, mortgage, surrender, lease or demise, or otherwise subject such Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands or Grounds, unto such Person or Persons as shall advance and lend such Sum and Sums of Money respectively, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years; or in case any Person in Possession, who shall be charged with a Sum or Sums of Money as aforesaid, shall choose to advance, pay, or discharge the same, that it shall be lawful for the said Commissioners, by any Deed or Writing under their Hands and Seals, to be attested by Two or more credible Witnesses, in like Manner to grant, mortgage, surrender, lease, demise, or otherwise subject the said Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, to such Person or Persons respectively paying or discharging the same, his, her, or their Executors, Administrators, and Assigns, for any Term or Number of Years, to and for the Payment of such Sum and Sums of Money as aforesaid, with interest for the same to commence on the Termination of his, her, or their Right in the Premises, so that every such Grant, Mortgage, Surrender, Lease, or Demise, be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered or re-assigned when such Sum and Sums of Money thereby to be secured shall have been fully paid and satisfied; and also with a Covenant to pay and keep down the Interest, so that no Person or Persons afterwards becoming entitled to any such Messuages, Cottages, Homesteads, Gardens, Orchards, or inclosed Lands and Grounds, shall be liable to pay any further or larger Arrear of Interest than for Six Calendar Months preceding the Time when the Title to such Possession shall have commenced; and every such Grant, Mortgage, Surrender, Lease, or Demise, shall be good, valid, and effectual in the Law, for the Purposes hereby intended.

Allotments
for Glebe
and Tythes
to be in the

And be it further Enacted, That the said Allotments herein directed to be made, set out, allotted, and awarded unto the said several Rectors, Vicars, and Impropropriators, and their Successors

Successors as aforesaid in lieu of Glebe Lands, Rights of Common and Tythes, and Moduses, Compositions, and other Payments in lieu of Tythes, if any, as aforesaid, shall be so respectively set out of the Lands and Grounds in the respective Parishes where such Glebe Lands and Rights of Common are, and from which such Tythes, Moduses, Compositions, or Payments in lieu of Tythes, are due and payable, and the same shall be accepted by such Rectors, Vicars, Impropropriators, and their Successors as aforesaid; and the same are hereby declared to be in lieu, Bar, and full Satisfaction of and for all such Glebe Lands and Rights of Common, and of all Tythes, both Great and Small, and all Portions of Tythes and Moduses, Compositions, and Payments in lieu of Tythes, and all Ecclesiastical Dues and Duties whatsoever now due and payable, and hereafter to arise and become due and payable to the said Rectors, Vicars, and Impropropriators, and their Successors as aforesaid, out of all, every, and any of the Estates, Lands, and Grounds in the said several Parishes (except the usual and accustomed Surplice Fees, Easter Offerings, and Mortuaries), any Law, Custom, or Usage to the contrary notwithstanding; and that the same Tythes, Moduses, Compositions, and Payments in lieu of Tythes shall immediately from and after the setting out of such Allotments in lieu and Satisfaction of the same as aforesaid, or at such other Time as the said Commissioners shall in and by their Award, or by any Writing to be signed by them previous to the Execution of the said Award, and affixed on the principal outer Door of each of the said Churches and Chapels as aforesaid, direct and appoint, cease, determine, and be for ever extinguished.

Provided always, and be it further Enacted, That until the said Division and Allotment shall be made, and Possession thereof given to the said respective Rectors, Vicars, and Impropropriators, or their Successors, the said respective Rectors, Vicars, and Impropropriators, and their respective Successors, shall be entitled to and shall respectively receive and enjoy such and the same Tythes and other Payments as they could, might, or ought to have severally and respectively received in case this Act had not passed; and that the said Rectors and Impropropriators respectively shall from and immediately after making the Allotments herein directed be for ever exonerated and exempt from providing and keeping a Bull and Boar for the use of the Inhabitants of each of the said Parishes.

And

respective
Parishes, and
to be accept-
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Tythes pay-
able until
Allotments
are made.