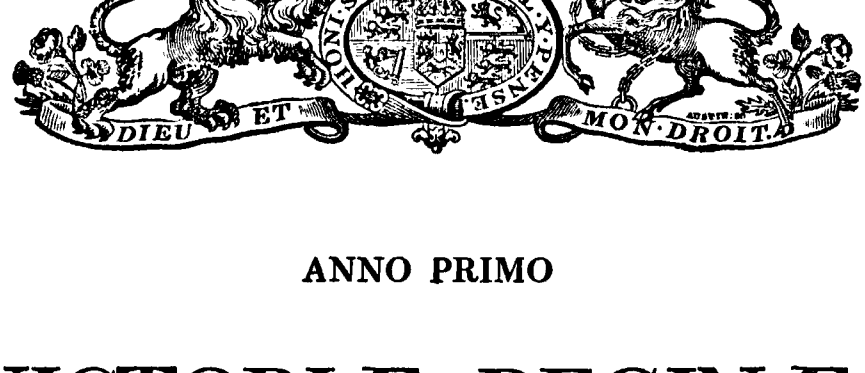


ANNO PRIMO

VICTORIÆ REGINÆ.

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CAP. LXIX.

An Act to amend an Act for the Commutation of Tithes in *England* and *Wales*.

[15th *July* 1837.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *William* the Fourth intituled *An Act for the Commutation of Tithes in* England *and* Wales; and it is expedient to amend the said Act in certain respects: Be it enacted by the Queen'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 the Tithe Commissioners for *England* and *Wales* shall have Power, if they shall think fit, to confirm under their Hands and Seal any Instrument of voluntary Apportionment, and also any Agreement for giving Land instead of Tithes, made according to the Provisions of the said Act, to which shall be annexed a Map or Plan agreed to be adopted by a Parochial Meeting, although they shall not be satisfied of the Accuracy of such Map, or Plan or that the several Quantities of Land specified in such Apportionment or Agreement are therein truly stated; but no Recital of Quantity or Admeasurement of Land, nor any Map or Plan annexed to any such confirmed Apportionment or Agreement, nor any Copy thereof, shall

6 & 7 W. 4. c. 71.

Apportionments and Agreements may be confirmed, although the Commissioners are not satisfied of the Accuracy of the Maps.

be

be deemed Evidence of the Quantity of Land referred to therein or of the Accuracy of such Map or Plan, unless the said Map or Plan, as well as the Instrument of Apportionment or Agreement, shall be signed by the Commissioners and sealed with their official Seal: Provided always, that the Commissioners, in case they shall confirm such voluntary Apportionment or Agreement, but shall not think proper to seal such Map or Plan, shall certify under their Hands upon some Part of such Map or Plan that the same is the Map or Plan referred to in such voluntary Apportionment or Agreement, as the Case may be, which Certificate shall be received as Evidence of that Fact.

For determining Parochial Boundaries.

II. And be it enacted, That Two Thirds in Value of the Owners of the Lands in any Parish or District of which the Tithes are to be commuted, and respecting the Boundaries of which any Dispute or Doubt shall arise, may, by Writing under their Hands or the Hands of their Agents, signed at a Parochial Meeting called for that Purpose according to the Provisions of the said Act, in the Case of a Parochial Meeting for making a voluntary Agreement for the Commutation of the Tithes of a Parish, signify their Request to the Tithe Commissioners that the said Commissioners should inquire into and settle such Boundaries; and thereupon the said Commissioners, or any Assistant Commissioner specially appointed under their Hands and Seal for that Purpose, shall, by Examination of Witnesses upon Oath (which Oath the said Commissioners or Assistant Commissioner are and is hereby empowered to administer), and also using any other Powers contained in the said Act, and by such other legal Ways and Means as they or he shall think proper, inquire into, ascertain, and set out the Boundaries of that Parish or District: Provided always, that such Commissioners or Assistant Commissioner (before they or he proceed to set out the Boundaries of such Parish or District) shall give public Notice of their or his Intention, by Writing under their or his Hands or Hand, to be affixed on the most public Doors of the Churches of that Parish or District, and of every Parish and District thereunto adjoining, and also by Advertisement to be inserted in some Newspaper circulated in the County in which such Parish or District is situated, and also by Writing to be delivered to or left Ten Days at least before the Time of setting out such Boundaries at the last or usual Place of Abode of the respective Land Owners, or the respective Agents of such Land Owners, through or abutting upon whose Lands the Boundaries of such Parish or District are supposed to pass; and such Commissioners or Assistant Commissioner shall, within One Month after ascertaining and setting out the Boundaries, publish the same by causing a Description thereof in Writing to be delivered to or left at the Place of Abode of One of the Churchwardens or Overseers of the Poor of the Parish or District of which the Boundary shall be so set out, and of every Parish or District thereunto adjoining, and also of every Land Owner or his Agent through or abutting upon whose Lands the Boundary so set out shall pass.

III. And

Judgment of Commissioners respecting Boundaries may be removed by Certiorari.

III. And be it enacted, That any Person interested in the Judgment or Determination of the said Commissioners or Assistant Commissioner respecting the said Boundaries, who shall be dissatisfied with such Determination, may within Six Calendar Months next after the Publication of the said Boundaries, by delivering or leaving such Description as aforesaid, move the Court of Queen's Bench to remove the said Judgment by Certiorari into the said Court, the Party making such Application giving Eight Days Notice of such Application, and of the Matter and Ground thereof, in Writing, to the said Commissioners; and the Decision of the said Commissioners or Assistant Commissioner, or, in case of Removal as aforesaid, the Decision of the said Court therein, shall be final and conclusive, as to the Boundaries of such Parish or District, for all Purposes whatsoever; and after the Expiration of the said Term of Six Calendar Months, the Judgment shall not be removed or removeable by Certiorari or any other Writ or Process whatsoever into any of Her Majesty's Courts of Record at *Westminster* or elsewhere; and no Certiorari shall be allowed to remove any such Judgment unless the Party prosecuting the Certiorari shall before Allowance thereof enter into a Recognizance before one of the Justices of the said Court, in the Sum of Fifty Pounds, with Condition to prosecute the same without wilful Delay, and to pay to the said Commissioners their full Costs and Charges within One Calendar Month after the Judgment shall be confirmed, to be taxed according to the Custom of the Court.

The Apportionment need not contain the several Amounts of Corn charged on each Estate.

IV. And be it enacted, That it shall not be necessary to state in any Instrument of Apportionment the several Quantities of Wheat, Barley, and Oats charged upon the Estate of any Land Owner, or upon any Portion of such Estate included in such Apportionment; provided that the whole Sum agreed or awarded to be paid by way of Rent-charge instead of the Tithes of the whole Parish or District be therein stated, and the whole Number of Bushels of Wheat, Barley, and Oats ascertained to be the fixed Quantity of Corn of which the variable Value is to be paid in Money by way of Rent-charge, and also the several Sums of Money which were at the Time of the Confirmation of the Apportionment of equal Value with the Quantities of Wheat, Barley, and Oats apportioned on each Estate or each separate Portion thereof, according to the Provisions of the said Act, be also stated therein.

Particulars of Land not necessary to be stated in Instruments of voluntary Apportionments, if Three Fourths of the Land Owners so request.

V. And be it enacted, That it shall not be necessary to state in any Instrument of voluntary Apportionment made in consequence of a Parochial Agreement, whether the several Lands are then cultivated as Arable, Meadow, or Pasture Land, or as Wood Land, Common Land, or howsoever otherwise, nor to state the Amount charged on the several Closes of every individual Land Owner, if Three Fourths of the Land Owners interested in the said Apportionment shall by some Writing under their

their Hands request the Commissioners to direct that such Statements be omitted.

When only One Land Owner no Draft of Apportionment nor Meeting for Objections necessary.

VI. And be it enacted, That it shall not be necessary for the Commissioners to send a Copy of any Draft of voluntary Apportionment made in consequence of a Parochial Agreement for the Inspection of any Parties, nor to hold any Meeting to hear any Objection thereto, when One Land Owner shall be seised, either in Fee Simple or Fee Tail, of the whole of the Lands that are not Glebe Lands in such Parish.

Prices at which Conversion from Money into Corn is to be made.

VII. And be it enacted, That the Prices at which the Conversion from Money into Corn is to be made, at the Time of the Confirmation of each Apportionment, according to the Provisions of the said Act, are Seven Shillings and One Farthing for a Bushel of Wheat, Three Shillings and Eleven-pence Halfpenny for a Bushel of Barley, and Two Shillings and Nine-pence for a Bushel of Oats.

For the Assessment and Recovery of Rates.

VIII. And be it enacted, That all Rates and Charges to which any Rent-charge payable in lieu of Tithes shall be liable may be assessed upon the Owner of the Rent-charge, and the Whole or any Part thereof may be recovered from any One or more of the Occupiers of the Lands out of which such Rent-charge shall issue, in case the same shall not be sooner paid by the Owner of the Rent-charge upon whom the same shall be assessed, in like Manner as any Poor Rate assessed on such Occupier or Occupiers in respect of such Lands may be recovered, upon giving to such Occupier Twenty-one Days Notice in Writing previous to any one of the Half-yearly Days of Payment of the Rent-charge, and the Collector's Receipt for the Payment of such Rates and Charges, or of any Part thereof, shall be received in satisfaction of so much of the Rent-charge by the Owner thereof; but no Occupier shall be liable to pay at any one Time, in respect of such Rates and Charges, any greater Sum than the Rent-charge payable in respect of the Lands occupied by him in the same Parish shall amount to for the current Half Year in which such Notice shall have been given.

For determining the Lands chargeable with Rent-charge.

IX. And be it enacted, That in all Cases where the same Person or Body Politic is not entitled to the Perception of the whole of the Tithes of any Parish, and the Liability of the Lands to the Payment of Tithes is not in dispute, but the Lands out of which each Tithe Owner is entitled to the Perception of his Portion or Parcel of Tithes are not well defined, and also in all Cases where such Lands lie dispersedly throughout the Parish, it shall be lawful, at any Time before the Confirmation of any Apportionment under the Provisions of the said Act, for the Land Owners and Tithe Owners having any Interest in such Lands or Tithes (with the Consent of the Diocesan and of the Patron of the Living whenever Tithes payable to any Spiritual Person in right of his Benefice are in question), to agree, or for the Tithe Commissioners to determine, in case the Commutation shall have

been made by their Award, that the several Rent-charges which shall be made payable in lieu of Tithes to each of the Tithe Owners respectively shall be fixed and apportioned upon such particular Lands as to them shall seem convenient, so that no Lands are charged with more than their due Proportion of Rent-charge, when the Determination shall be by the compulsory Award of the Commissioners; and every Agreement or Determination to that Effect, when confirmed by the Tithe Commissioners, shall be binding upon and conclusive against all Persons and Bodies Politic, notwithstanding any Doubt as to the Identity of the Lands out of which the Tithes originally issued in lieu whereof such distinct Rent-charges are made payable.

Provision for the Period intervening between the End of former Compositions and the Commutation.

X. And be it enacted, That with the first Payment of Rent-charge under any Agreement for the Commutation of Tithes shall also be paid any Sum which shall be agreed to be paid in consideration of the Time (if any) which may intervene between the Termination of any previous Agreement or Composition for the Payment of Tithe and the Time at which, by the said Agreement for Commutation, the Lands shall be discharged from the Payment of Tithe, regard being had to the whole annual Amount of Rent-charge agreed to be paid, and to the other Circumstances of each Case.

Parties to a Parochial Agreement may fix when it shall begin to operate.

XI. And be it enacted, That the Parties to a Parochial Agreement may agree thereby, or by any supplemental Agreement made and confirmed in like Manner, that the Lands included in the said Agreement shall be discharged from the Payment of Tithes (except as excepted in the said Act) from the First Day of *January* next preceding, or from the First Day of *April*, or First Day of *July*, or First Day of *October* preceding or following the Confirmation of the Apportionment instead of the First Day of *January* next following the Confirmation: Provided always, that in every Case the first Payment of Rent-charge shall be made and recoverable by the Means provided in the said Act, on the Expiration of Six Calendar Months from the Time from which such Lands are discharged from the Payment of Tithes.

Deeds not chargeable with Stamp Duty.

XII. And be it enacted, That no Deed or Declaration authorized by the said Act for the Commutation, Release, or Merger of Tithes shall be chargeable with any Stamp Duty.

Assistant Commissioner may be sworn before Two Justices or a Master in Chancery.

XIII. And be it enacted, That any Assistant Commissioner appointed to assist in carrying the said Act into execution may take the Oath required of him by the said Act before any Two Justices for the County, Riding, Division, Liberty, or Jurisdiction wherein such Assistant Commissioner shall be resident at the Time of his Appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and every such Oath so taken shall be as valid and effectual as if the same had been taken before One of the Judges of Her Majesty's Court of Queen's

Bench or Common Pleas or One of the Barons of the Court of Exchequer.

This Act to be taken as Part of 6 & 7 W. 4. c. 71.

XIV. And be it enacted, That this Act shall be taken to be a Part of the said Act for the Commutation of Tithes in *England* and *Wales*.

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