



Inclosure Act 1847

1847 CHAPTER 111

An Act to extend the Provisions of the Act for the Inclosure and Improvement of Commons. [23d July 1847]

WHEREAS an Act was passed in the Session of Parliament holden in the Eighth and Ninth Years of Her present Majesty, intituled *An Act to facilitate the Inclosure and Improvement of Commons and Lands held in common, the Exchange of Lands, and the Division of intermixed Lands; to provide Remedies for defective or incomplete Executions, and for the Non-execution of the Powers of general and local Inclosure Acts; and to provide for the Revival of such Powers in certain Cases* : And whereas it is expedient further to facilitate Proceedings under the said recited Act in the Cases herein-after mentioned :

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,

Where the Title to a Manor, &c. is litigated the Consent of both Claimants to be equivalent to Consent of an actual Owner.

That where an Action, Suit, or Difference shall be pending concerning the Title to any Manor, Land, or Right, or to an Estate or Interest therein, of which the actual Owner would, under the Definitions of the said Act, be (in respect of such Manor, Land, or Right,) the Person interested in Land concerning which any Application or Proceeding may be made or be pending under the said Act the Consent of both the Persons between whom such Action, Suit, or Difference may be pending, to any Application, Inclosure, or Owner. other Proceeding under the said Act, shall be as effectual as the Consent of the actual Owner of the Manor, Land, or Right, or of such Estate or Interest therein, would have been in case no Action Suit, or Difference had been pending.

II Provision for the Case of more than One Person claiming to be interested.

Provided always, and be it enacted, That where, according to the Claim of a Party to such Action, Suit, or Difference, more than One Person would be or become interested as aforesaid in respect of such Manor, Land, or Right, such Consent of such Number

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or Portion, or (as the Case may require) such Non-signification of Dissent by such Number or Portion of the Persons who would so become interested, to the Application, Inclosure, or other Proceeding as would have been sufficient in case such Claim had been established shall be equivalent to the Consent of the Party so claiming under the Provisions of this Act.

III Saving Rights of the Crown and others to the Soil of Encroachments.

And be it enacted and declared, That where any Lands shall have been inclosed, by way of Encroachment or otherwise, from any Land subject to be inclosed under the said recited Act, for more than Twenty Years next preceding the Day of the First Meeting for the Examination of Claims in the Matter of an Inclosure under the Provisions of the said Act, and shall not, with such Consent as in the said Act provided, be directed by the Valuer to be considered as allottable, and Parcel of the Land to be inclosed, neither the Award, in the Inclosure under the Provisions of the said Act, nor any Consents or Orders previous thereto, shall be taken to divest, defeat, or prejudice any Property, Estate, Right, or Title of Her Majesty or of any other Person in or to the Lands so inclosed for Twenty Years or upwards as aforesaid, or the Minerals or Substrata under the same, or in or to any Rent or Payment payable in respect thereof (except only any Rights of Common intended to be extinguished by the Inclosure under the Provisions of the said Act).

IV Exchanges may be made of Land, excepting or reserving Minerals and Easements.

And be it enacted, That where an Exchange shall be made under the said Act of Lands not subject to be inclosed under such Act, or of Lands subject to be so inclosed as to which no Proceedings for an Inclosure shall be pending, it shall and may be lawful for the Commissioners, in conformity with the Terms of the Application for such Exchange, to except or reserve out of such Exchange the Property or Right of or to all or any of the Mines or Minerals under all or any Part of the Land given by both or either of the Parties, together with Rights and Easements for or auxiliary to the Exercise or Enjoyment of the Right or Property of such excepted or reserved Mines and Minerals, and (whether such Mines and Minerals shall or shall not be reserved) such Rights of Way and other Easements as the Parties to such Application may have agreed on.

V Recital of Provision as to Commissioners not proceeding to amend any Award under any Local Act, &c. until Notice of Application shall have been given by Advertisement, &c. Recited Provision repealed, and if Commissioners think fit to proceed on any Application, they may refer the same to an Assistant Commissioner, &c.

And whereas by the said recited Act of the Eighth and Ninth Years of Her present Majesty it is provided, that the Commissioners shall not in any Case proceed to amend any Award under any Local Act of Inclosure, or under the Act of the Seventh Year of the Reign of King *William* the Fourth for facilitating the Inclosure of Open and Arable Fields in *England* and *Wales*, or to authorize the Execution of any Power or Authority under any such Local Act which shall have been lost or have become incapable of being executed, as therein mentioned, or to authorize any Person to be by them appointed as therein mentioned to execute the Powers or Authorities of any Local Act, in the Place of the Commissioner or Commissioners appointed under such Local Act, until Notice of the Application shall have been given by Advertisement as

therein mentioned; and that in case, within Two Calendar Months from the Publication of the last of the Advertisements, One Fourth Part in Number or Value of the Persons interested, according to the Definitions therein-before contained, in the Land to which the Award so proposed to be amended, or the Part thereof proposed to be amended, should relate, or in the Land to be affected by the Exercise of such Powers or Authorities, should give Notice in Writing to the Commissioners of their Dissent from such Application, the Commissioners shall not proceed further on such Application; be it enacted, That the said recited Provision be repealed; and that in case the Commissioners shall think fit to proceed on any such Application as aforesaid the Commissioners shall refer such Application to an Assistant Commissioner, and such Assistant Commissioner shall hold such Meeting or Meetings to hear any Objections which may be made to such Application, and any Information or Evidence which may be offered in relation thereto, or to the Matter thereof, and shall report his Opinion as to the Expediency or Inexpediency of proceeding upon such Application, having regard to all Rights which may be disturbed or affected thereby, in such and the same Manner, and subject to such and the same Provisions concerning Notices of such Meetings, as are in the said Act of the Eighth and Ninth Years of Her present Majesty contained concerning Inquiries as to the Expediency or Inexpediency of a proposed Inclosure ; and upon the Report of such Assistant Commissioner it shall be lawful for the Commissioners to proceed or to abstain from -proceeding further on such Application, as they may think fit; and it shall be lawful for the Commissioners (where they shall so think fit) to cause such further Meetings to be held, and Inquiries made in relation to such Application, or to the Report thereupon, as might have been held or made in the Matter of a proposed Inclosure, and to give such Directions in relation to the Matter of such Application, or to the Execution of the Powers or Authorities thereby proposed to be revived or executed, as the Circumstances of each Case shall appear to them to require.

VI Lands taken in exchange, &c. in respect of Copyhold or Customary Lands shall be held to be Copyhold, and shall be held of the same Lord, &c.

And whereas it is provided by the said Act that any Land taken in exchange or on partition or allotted in respect of Copyhold or Customary Land shall be deemed Copyhold or Customary Land, and shall be held of the Lord of the same Manor under the same Rent and by the same Customs and Services as the Copyhold or Customary Land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like Manner as the Copyhold or Customary Land in respect whereof such Exchanges, Partitions, or Allotments shall be made: And whereas it is expedient to enable the Parties so taking such Lands in exchange or on partition or as Allotments to hold the same of Freehold Tenure; be it enacted, That, by and with the Consent of the Lord of the Manor, and of the Parties so taking such Lands in exchange or on partition of as Allotments, it shall and may be lawful for the said Commissioners to declare that the same shall be held as of Freehold Tenure, on such Terms and Conditions as may be agreed upon between the Parties, and as may be deemed just by the said Commissioners, and the same Land shall be held as Freehold accordingly.

VII Meetings may be adjourned without the Attendance of Commissioner or Assistant Commissioner.

And be it enacted, That where Notice shall have been given of any Meeting, whether original or by Adjournment, to be held by the Commissioners or by an

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Assistant Commissioner, or otherwise, it shall be lawful for the Commissioners or an Assistant Commissioner by Notice to adjourn such Meeting, without any Commissioner or Assistant Commissioner giving Attendance for the Purpose of making such Adjournment; and where Notice shall have been given of a Meeting by a Valuer, it shall be lawful for him by Notice to adjourn such Meeting, without giving Attendance for the Purpose of making such Adjournment.

VIII Notices may be given by the Secretary of the Commissioners, or other Person appointed for, that Purpose.

And be it enacted, That all Notices by the said Act of the Eighth and Ninth Years of the Reign of Her present Majesty, or by any Act amending the same or referring thereto, or by this Act, directed or authorized to be given by the Commissioners and Assistant Commissioners respectively, may be given by the Secretary of the Commissioners, or by any Person whom the Commissioners or any Assistant Commissioner, in conformity with the Power delegated to him by the Commissioners, may appoint or authorize for that Purpose.

IX Recited Act deemed Part of this Act.

And be it enacted, That this Act shall be taken to be a Part of the said recited Act of the Eighth and Ninth Years of the Reign of Her present Majesty, and be construed therewith, and with any Act amending the same or referring thereto.

X Act may be amended, &c.

And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session.