



Inclosure Act 1849

1849 CHAPTER 83

An Act further to facilitate the Inclosure of Commons, and the Improvement of Commons and other Lands. [1st August 1849]

WHEREAS an Act was passed in the Session of Parliament holden in the Eighth and Ninth Years of the Reign 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 an Act was passed in the Session of Parliament holden in the Ninth and Tenth Years of Her present Majesty, intituled *An Act to amend the Act to facilitate the Inclosure and Improvement of Commons*: And whereas an Act was passed in the Session of Parliament holden in the Tenth and Eleventh Years of Her present Majesty, intituled *An Act to extend the Provisions of the Act for the Inclosure and Improvement of Commons*: And whereas an Act was passed in the Session of Parliament holden in the Eleventh and Twelfth Years of Her present Majesty, intituled *An Act to further extend the Provisions of the Act for the Inclosure and Improvement of Commons*: And whereas it is expedient that the Provisions of the said Acts should be further extended:

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,

New Boundaries of Parishes may be set out.

That it shall be lawful for the Valuer in the Matter of any Inclosure, with the Approbation of the Inclosure Commissioners for *England* and *Wales*, to declare by his Award how much and which Part of any of the Lands to be allotted, divided, or dealt with by such Award, or of any Roads passing over or through the same or any Part thereof, shall be and be deemed to be situate in any Parish or Parishes in which any of the Land so to be divided, allotted, or dealt with shall be situate ; and after the Date of the Confirmation of such Award so much and such Part of such Lands and Roads shall be and be deemed Part of the Parish or Parishes in which such Award shall declare them to be situate; Provided always, that no such Declarations as aforesaid shall be made in any Award where it shall

Status: This is the original version (as it was originally enacted).

appear to the said Inclosure Commissioners that there is any Dispute or Difference as to the Parish or Parishes in which such Land or Road, or any Part thereof respectively, to be dealt with by such Declaration, is situated: Provided also, that no Award containing such Declaration as aforesaid shall be confirmed by the Inclosure Commissioners, where it shall appear to them that the Boundaries of any Counties would be affected by such Declaration, until Notice in Writing under the Hand of the Valuer of his Intention to insert the same in his Award shall have been served upon the respective Clerks of the Peace of the Counties, the Boundaries of which may be affected by such Declaration, or shall have been left at their respective Offices of Business ; and if within the Space of Fourteen Days after the holding of the next General Quarter Sessions for each of such Counties, or of the last of such respective Sessions, a Requisition in Writing under the Hand of the Clerk of the Peace of either of such Counties, and countersigned by the Chairman who shall have presided at such Quarter Sessions as aforesaid holden for the same County, requiring the Omission of such Declaration from such Award, shall be sent to the Inclosure Commissioners, such Commissioners shall not confirm such Award with such Declaration as aforesaid therein.

II Persons having Rights of Common may be dealt with as a Class. Class.

And be it enacted, That whenever Persons interested in any Land to be inclosed under the Provisions of the said recited Acts shall be entitled to any similar Rights of Common or other similar Rights over the Lands to be inclosed, and it shall appear to the Valuer in the Matter of such Inclosure that it would be for the Benefit of such Persons to be dealt with as a Class in the Matter of such Inclosure, it shall be lawful for the said Inclosure Commissioners, on the Representation of the said Valuer, to call a Meeting of the Persons interested, for the Purpose of ascertaining whether Two Thirds in Number of the Persons present at such Meeting shall be desirous of being dealt with as a Class ; and the Commissioners shall, if they shall so think fit, appoint an Assistant Commissioner to be present and preside at such Meeting, and to take the Votes of the Persons present thereat; and such Assistant Commissioner (if any) or the Chairman of the Meeting shall report to the said Commissioners whether Two Thirds in Number of the Persons present at such Meeting are desirous of being dealt with as a Class as aforesaid; and if it shall appear that Two Thirds of such Persons are desirous of being dealt with as a Class, it shall be lawful for the Commissioners, by an Order under their Seal, if they shall so think fit, to direct that the Persons entitled to such similar Rights of Common or other similar Rights as aforesaid shall be dealt with as a Class ; and after such Order all the Provisions of the said recited Acts applicable to a Class shall be applicable to the Persons so interested in the Matter of such Inclosure, as if they had been a Class under the Provisions of the said recited Acts.

III Meetings for Instructions.

And whereas Doubts have arisen whether, under the Provisions of the said first-recited Act, after a Meeting shall have been holden to give Instructions to a Valuer in the Matter of any Inclosure, any other Meeting after such first can be holden for the Purpose of giving further Instructions to such Valuer in the Matter of such Inclosure : Be it declared and enacted, That in all Cases where in the Matter of any Inclosure a Meeting shall have been holden for the Purpose of giving such Instructions, it shall be lawful for the said Commissioners to call other Meetings to give further Instructions to the Valuer in the Matter of any Inclosure, subject to all the Provisions of the said first-recited Act as regards the First Meeting held for the Purpose aforesaid, so far as the same shall be applicable to the Second or any subsequent Meeting; and when any

Instructions shall have been given previously to the passing of this Act to the Valuer in the Matter of any Inclosure at a Meeting for such Purpose subsequent to the first Instructions, and allowed by the said Commissioners, the same shall be as valid and of the same Force and Effect as if they had been given at the First Meeting called for such Purpose; provided that the Commissioners shall not allow any Instructions given at any Second or- subsequent Meeting, whereby any Arrangement entered into or made by the first Instructions for the Protection or Convenience of any Persons interested in the Inclosure shall be prejudicially affected, if such Persons, after such reasonable Notice to be given for that Purpose as the Commissioners shall think fit, shall signify, in Writing to the Commissioners, their Dissent from such subsequent Instructions.

IV Commissioners may complete Proceedings under 6 & 7 W. 4. c. 115.

And be it enacted, That all the Powers and Authorities in anywise enabling the said Commissioners to complete Proceedings under any local Act of Inclosure shall be applicable to Proceedings commenced under the Provisions of an Act passed in the Seventh Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales*.

V Quit Rents, Chief Rents, and Heriots.

And be it enacted, That it shall be lawful for the said Commissioners in the Matter of any Inclosure, by the Provisional Order, or by any other Order under their Seal, to declare that an Allotment or Allotments in lieu of Quit Rents, Chief Rents, or Heriots shall be given to the Lord of the Manor to whom such Quit Rents, Chief Rents, or Heriots are payable out of any old Inclosure in respect of which an Allotment would be made, or would have been payable out of any Allotments on the Confirmation of the Award, and the Valuer shall upon the Issue of such Provisional or other Order set out such Allotment or Allotments; provided always, that no such Allotment in lieu of such Quit Rents, Chief Rents, or Heriots shall be made except with the Consent of such Lord.

VI Balance of Money raised by Sale of Land.

And be it enacted, That where any Monies shall have been raised by Sale of Land in the Matter of any Inclosure for the Expenses thereof, and any Balance out of such Monies shall after the Payment of such Expenses remain in the Hands of the Inclosure Commissioners, it shall be lawful for the said Commissioners to pay the same to the Persons interested, in such Proportions and under such Restrictions or Conditions as they shall deem just.

VII Exchange and Partition of Rights.

And be it enacted, That all the Provisions of the said recited Acts applicable to the Powers of Exchange and Partition under the said recited Acts shall extend and be applicable to the Exchange of all Rights of Common, Rights of Fishing, Manorial and other Rights, and all Easements over any Land, and all Quit Rents, Chief Rents, Heriots, Tithes, and Rent-charges for any other of the said Rights, Easements, and Things, whether of the same or a like or different Nature, or for Land, and also to the Partition of the same respectively; and when Two or more Persons shall be interested jointly, severally, as a Class, or in common, in any Rights or Property proposed to be exchanged or partitioned under this or the said recited Acts, the Application of

Two Thirds in Value of the Persons so interested jointly, severally, as a Class, or in common, as aforesaid, shall be deemed the Application of all Persons interested Or having any Estate therein.

VIII Separate Tracts.

And be it enacted, That where Lands proposed to be inclosed Under the said recited Acts shall consist of separate Tracts of Open and Common Arable, Meadow, and Pasture Lands or Fields, entirely or in part, or of Common or Waste Lands subject to Rights of Common, entirely or in part, or shall otherwise consist of separate arid distinct Tracts, and it shall appear to the said Commissioners that Two Thirds in Value of the Persons interested in the Entirety of such Tracts shall have assented to the proposed Inclosure on the Terms and Conditions in their Provisional Order specified, it shall be lawful for the said Commissioners, if they shall see fit, to proceed therewith.

IX Extending Provisions of recited Acts to the fixing Boundaries under this Act.

And be it enacted, That all the Provisions of the said recited Acts applicable to the ascertaining, setting out, and fixing the Boundaries of any Parish or Manor in which the Land proposed to be inclosed, or any Part thereof, shall be situate, and of any Parish or Manor adjoining thereto, shall extend and be applicable to the ascertaining, setting out, and fixing of the Boundaries of any Township, Vill, Hamlet, or Tithing not having separate Overseers of the Poor, and of a Manor, although the same shall not abut or adjoin upon any other Manor.

X How Persons exercising Acts of Ownership where Rights suspended or extinguished, or Allotments directed to be entered upon, may be proceeded against. Remedies independent of this Provision to be unprejudiced.

And be it enacted, That if in any Case, after the Valuer acting in the Matter of any Inclosure shall under the Authority and Direction of the Commissioners, and in manner provided by the said first-recited Act, have ordered all or any Part of the Rights of Sheep-walk, Common or other Rights, in or over the Land to be inclosed, or any Part thereof, to be extinguished, or the Exercise thereof to be suspended, or after such Valuer shall under the Authority of the same Act have directed any Allotment to be made in such In-closure to be entered upon by the Person for whom the same shall be intended, any Person, other than and except, as to any Allotment directed to be entered upon, the Person for whom such Allotment is intended, shall exercise any Act of Ownership upon or in respect of any Land the Rights in, upon, or over which shall have been so extinguished or shall be so suspended, or any Land so directed to be entered upon, whether by erecting Huts or other Buildings or Erections thereon, or by putting up Fences, or digging therein, on being convicted thereof before Two Justices of the Peace having Jurisdiction in the County or Place, shall forfeit and pay for and in respect of every such Act of Ownership such Sum of Money not exceeding Five Pounds as such Justices shall think proper to inflict by way of Penalty, and such Sum shall be paid to the Valuer, to be applied by him in aid of the Expenses in such Inclosure, or to the Person lawfully in possession of such Allotment, as the Justices may think fit and direct; and the Justices may by their Order legally vest any Property or Effects erected or placed upon the Land by the Exercise of any such Act of Ownership in the Valuer, to be removed, sold, and applied by him in aid of such Expenses, or in the Person lawfully in possession of such Allotment, as the Justices may think fit and direct; and the Provisions of the Act of the Seventh and Eighth Years

of King George the Fourth, intituled *An Act for consolidating and amending the laws in England relative to malicious Injuries to Property*, concerning the Prosecution of Offenders punishable on summary Conviction under such Act, and the Form of such Conviction, and concerning the Cases of a summary Conviction under such Act where the Sum which shall be forfeited for the Amount of Injury done shall not be paid, and all other Provisions of such Act consequent upon or in relation to such Proceedings and Conviction, shall be applicable to the Offences under this Act, and the Prosecution and Conviction for the same respectively, save that any Matter by the said Act directed to be done by the Justice shall be done by Two Justices as aforesaid: Provided always, that no Remedy which any Person in possession of the Land under a Direction by the Valuer to enter thereon might otherwise have in respect of any such Act of Ownership, under the fourthly above-recited Act or otherwise, shall be in any Manner prejudiced or affected by the Provision last hereinbefore contained.

XI Lands held under separate Titles by the same Person may be exchanged.

And whereas Doubts have arisen whether, under the said recited Acts, a Person interested in several Subject Matters of Exchange, but held under separate Titles, or for distinct and separate Interests, or subject to separate Charges or Incumbrances, can effect an Exchange thereof: Be it declared and enacted, That the Person so interested as aforesaid may effect Exchanges of such several Subject Matters of Exchange in such and the same Manner as if different Persons had been interested therein.

XII Recited Acts deemed Part of this Act.

And be it enacted, That this Act shall be taken to be of the said recited Acts, and be construed therewith.