CAP. LI.

An Act to amend an Act of the Third Year of King *George* the Fourth, for regulating Turnpike Roads in *England*, and also an Act of the Fifth and Sixth Years of King *William* the Fourth, for consolidating the Laws relating to Highways in *England*.

[21st *June* 1841.]

'WHEREAS by an Act passed in the Third Year of the Reign of King *George* the Fourth, intituled *An Act to amend the general Laws now in being for the regulating Turnpike Roads in that Part of* Great Britain *called* England, it is amongst other things enacted, "that it shall not be lawful for any Surveyor, or any other Person or Persons acting under the Authority of this Act, to dig, gather, get, take, or carry away any Materials for making or repairing any Turnpike Road, or for other such Purpose or Purposes as aforesaid, out of or from any inclosed Land or Ground, until Notice in Writing, signed by the Surveyor, shall have been given to the Owner or Owners of the Premises from which such Materials are intended to be taken, or his or her known Agent, or to the Occupiers of the Premises from which such Materials are intended to be taken, or left at the House or last or usual Place of Abode of such Owner or Occupier, to appear before any Two or more Justices of the Peace acting in and for the County, Liberty, or Place where the Lands from whence such Materials are intended to be taken shall be, to show Cause why such Materials shall not be had therefrom; and in case such Owner, Agent, or Occupier shall attend pursuant to such Notice, but shall not show sufficient Cause to the contrary, such Justices shall, if they think proper, authorize such Surveyor or other Person to dig, get, gather, take, or carry away such Materials, at such Time or Times as to such Justices shall seem proper; and if such Owner, Agent, or Occupier shall neglect or refuse to appear by himself or herself, or his or her Agent, the said Justices shall and may (upon Proof on Oath of the Service of such Notice, and which Oath they are hereby empowered to administer,) make such Order therein as they shall think fit, as fully and effectually, to all Intents and Purposes, as if such Owner or Occupier, or his or her Agent, had attended:" And whereas by an Act passed in the Session held in the Fifth and Sixth Years of the Reign of King *William* the Fourth, intituled *An Act to consolidate and amend the Laws relating to Highways in that Part of* Great Britain *called* England, it is amongst other things enacted, "that it shall not be lawful for any Surveyor, or any other Person acting under the Authority of this Act, to dig, gather, get, take, or carry away any Materials for making or repairing any Highway out of or from any inclosed Land or Ground, until One Calendar Month's

3 G. 4. c. 126.

5 & 6 W. 4. c. 50.

'Month's Notice in Writing, signed by the Surveyor, shall 'have been given to the Owner of the Premises from which 'such Materials are intended to be taken, or to his known 'Agent, and to the Occupier of the Premises from which such 'Materials are intended to be taken, or left at the House or 'last or usual Place of Abode of such Owner or Agent, and 'also of such Occupier, to appear before the Justices at a Special 'Sessions for the Highways, to show Cause why such Mate-'rials shall not be had therefrom; and in case such Owner, 'Agent, or Occupier shall attend pursuant to such Notice, 'but shall not show sufficient Cause to the contrary, such 'Justices shall, if they think proper, authorize such Surveyor 'or other Person to dig, get, gather, take, and carry away such 'Materials, at such Time or Times as to such Justices shall 'seem proper; and if such Owner, Agent, or Occupier shall 'neglect or refuse to appear by himself or his Agent, the said 'Justices shall and may, upon Proof on Oath of the Service of 'such Notice, make such Order therein as they shall think fit, 'as fully and effectually, to all Intents and Purposes, as if 'such Owner or Occupier, or his Agent, had attended:" And 'whereas Doubts have been entertained whether the Words '"inclosed Land or Ground," used in the said recited Acts, 'include Land being the private and exclusive Property of any 'Person or Persons, but not being actually inclosed with a 'Fence: And whereas large Portions of such Land are occupied 'for agricultural Purposes by the Owners or Occupiers thereof 'respectively, without the same being inclosed with any Fence; 'and it is expedient that the Materials referred to in the 'said recited Acts should not be taken from any such Land 'without previous Notice being given to the Owners or 'Occupiers thereof, and the Authority herein-after men-'tioned obtained for that Purpose;' be it therefore 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 from and after the passing of this Act all Lands and Grounds which shall be in the exclusive Occupation of One or more Persons for agricultural Purposes shall be deemed and taken to be inclosed Lands or Grounds within the Meaning of the said recited Acts, although the same may not be separated from any adjoining Lands or Grounds of other Persons, or from the Highway, by any Fence or other Inclosure.

Lands in the exclusive Occupation of Persons for agricultural Purposes to be deemed inclosed Lands.