

ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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CAP. XXXI.

An Act to extend the Powers and Provisions of the several Acts relating to the Inclosure of Open and Arable Fields in *England* and *Wales*.

[23d *July* 1840.]

WHEREAS an Act was passed in the Forty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts*: And whereas another Act of Parliament was 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 Field in* England *and* Wales: And whereas it is desirable that Awards under the said secondly-recited Act should be rendered final and conclusive, and that the Powers of the Commissioners acting under or in execution of the said recited Acts or either of them, for the ascertaining and determining Boundaries, should be extended in the respects herein-after mentioned: 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 (subject and without Prejudice to the Right of Appeal given by the said secondly-recited Act) all Awards that shall be made in pursuance of that Act and of this Act, or either of them, shall imme-

41 G. 3. c. 109.

6 & 7 W. 4. c. 115.

The Award to be conclusive Evidence that the Provisions of the Act have been complied with

and the necessary Consents given.

immediately after the Execution thereof be conclusive Evidence that the Provisions of the said Acts have in all respects been complied with, and that all necessary Consents have been given; and no other Evidence than such Awards shall be requisite to establish the Title under the Inclosure of the Parties concerned or interested in the same: Provided always, that if any Party concerned or interested in any such Inclosure shall, after the making of the Award thereunder, take possession of, or proceed to inclose or to cultivate, any Allotment, or any Lands given in Exchange, which shall have been thereby awarded to such Party, all Right of Appeal which might otherwise have been exercised by such Party against the said Award shall, from the Time of such taking possession, or of such proceeding to inclose or to cultivate, (as the Case may be,) be deemed and taken to have been absolutely waived and surrendered.

Parties taking possession of or proceeding to inclose or to cultivate their Allotments to be deemed to have waived all Right of Appeal.

Powers of Commissioners as to setting out Boundaries extended.

II. And whereas by the said first-recited Act Power is given to the Commissioner or Commissioners appointed in or by virtue of any Act of Inclosure to ascertain and determine the Boundaries of Parishes, Manors, Hamlets, or Districts to be divided and inclosed, and of Parishes, Manors, Hamlets, or Districts adjoining thereto: And whereas it is expedient that the Power of such Commissioner or Commissioners should extend to the straightening of Boundaries in Cases in which the Lands in any Parishes, Manors, Hamlets, or Districts so to be divided and inclosed are or are reputed to be intermixed with the Lands of any adjoining Parish, Manor, Hamlet, or District; be it enacted, That so much of the Powers and Provisions in the said first-recited Act contained as relates to the ascertaining, setting out, determining, and fixing the Boundaries of Parishes, Manors, Hamlets, or Districts shall extend and be applicable to the straightening of the Boundaries of any Parish, Manor, Hamlet, or District to be divided and inclosed under the said recited Acts or either of them, whenever the Lands of such Parish, Manor, Hamlet, or District shall be or be reputed to be intermixed with the Lands of any other Parish, Manor, Hamlet, or District.

Commissioners to declare by their Award the Parish to which any Land cut off in straightening Boundaries shall be annexed.

III. And be it enacted, That in every Case in which the Commissioners shall, in the Exercise of the Powers given to them by the said recited Acts or by this Act, for the Purpose of ascertaining or straightening Boundaries, sever any Land from any Parish, Manor, Hamlet, or District to which it may have been reputed to belong, they shall, in and by their Award, declare to what Parish, Manor, Hamlet, or District such Land shall be annexed; and the same shall thenceforth, for all Purposes, belong to the Parish, Manor, Hamlet, or District to which it shall have been so declared to be annexed as aforesaid.

Powers of 6 & 7 W. 4. c. 115. extended to Lands commonable only during Part of the Year.

IV. And whereas by the said secondly above-recited Act it was enacted, that it should be lawful for Two Third Parts in Number and Value who should be interested in manner therein mentioned in any Open and Common Arable Fields, including any untitled Slips or Balks therein, or any Open and Common Meadow or Pasture Lands or Fields in any Parish, Township, or Place (except as therein excepted) in *England* and *Wales*, known by Metes and Bounds, or occupied according to known and legal Rights, to inclose in manner

therein mentioned such said Lands and Fields: And whereas Doubts have arisen whether the said secondly above-recited Act applies to and includes such Open and Common Arable Fields as have adjacent thereto (but not separated by any Fence therefrom) certain Tracts of Grass Land commonable during Part of the Year, and holden in Severalty, or by Lot or Apportionment, by or among Persons interested therein, during other Parts of the Year; be it therefore enacted, That the said secondly above-recited Act, and all Powers and Provisoes therein contained or mentioned, shall be adjudged and construed to apply and extend to all such Open and Common Fields and Tracts of Grass Land as are herein last-before mentioned.

This Act to be construed with that of 6 & 7 W. 4.

V. And be it enacted, That this Act shall be construed as One with the said secondly above-recited Act.

Act may be amended this Session.

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

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