


ANNO VICESIMO & VICESIMO PRIMO

# VICTORIÆ REGINÆ.

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## CAP. XXXI.

## An Act to amend and explain the Inclosure Acts.

[10th *August* 1857.]

WHEREAS it is expedient that "The Acts for the Inclosure, Exchange, and Improvement of Land" should be further amended and 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, as follows:

Fences may be dispensed with.

I. In any Case of Inclosure in which it shall appear to the Inclosure Commissioners of *England* and *Wales* to be unnecessary that all or any of the Allotments to be made under the Award of the Valuer acting in the Matter of such Inclosure should be fenced, it shall be lawful for the said Commissioners, by an Order under their Hands and Seal, if they shall see fit to dispense with the Erection of Boundary and other Fences, to direct that such Allotments or any of them shall be distinguished by Metes and Bounds: Provided nevertheless, that any Person interested in an Allotment may at any Time fence the same at his own Expense.

Allotments, until fenced, to be deemed a regulated Pasture.

II. So long as any of such Allotments remain unfenced the same shall be subject to the Provisions of the said Acts relating to regulated Pastures, in such Manner as the Valuer, with the Approbation of the said Commissioners, shall by his Award direct; and the Owners thereof shall enjoy all such Rights of Common by reason of Vicinage as they were entitled to prior to the setting out of such Allotments.

Notices and Claims may be sent by Post, or left at usual Place of Abode.

III. Where by the said Acts Notice is required to be given to any designated Person, or any Claim is required to be delivered to the Valuer in the Matter of any Inclosure, such Notice may be given or Claim delivered either by sending it by the Post in a registered Letter, or by leaving it at the Office or usual Place of Abode of such Person or Valuer respectively.

Exchanges of Land by Railway and other Companies.

IV. For the Purpose of removing all Doubts as to the Power of Companies incorporated by special Act of Parliament for the making and maintaining of any Railway, Canal, Docks, Harbour, Waterworks, or other Work, to exchange Land belonging to such Companies under the Provisions of the said Acts, be it declared and enacted, That every such Company shall be deemed to be a Person interested within the Meaning of "The Acts for the Inclosure, Exchange, and Improvement of Land," for the Purpose of exchanging Land belonging to the said Company, and that notwithstanding the Provisions in any Act of Parliament relating to such Company specially limiting the Purposes to which such Land belonging to the said Company shall be applicable.

Exchange of Lands in which Her Majesty is interested in reversion.

V. In case any Person interested according to the Definition contained in the Sixteenth Section of the Act passed in the Session of Parliament held in the Eighth and Ninth Years of the Reign of Her present Majesty, Chapter One hundred and eighteen, shall apply to the Inclosure Commissioners for an Order of Exchange of any Land in which Her Majesty, Her Heirs or Successors, have any Estate or Interest in Right of the Crown, in reversion or remainder expectant upon the Determination of any Estate for Life or other larger Interest, it shall be lawful for the Inclosure Commissioners to make such Order of Exchange, if they shall so think fit, provided that the Consent of Her Majesty, Her Heirs or Successors, shall have been previously signified thereto by some Writing under the Hand of One of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues; and every such Order of Exchange which shall be made with such Consent shall be valid and effectual to all Intents and Purposes whatsoever, and shall be binding upon Her Majesty, Her Heirs and Successors, and a Duplicate thereof shall in every Case be deposited

deposited in the Office of Land Revenue Records and Inrolments: Provided always, that in case any such Order shall, previously to the passing of this Act, have been made upon the Application of any Person as above mentioned, with the said Consent previously signified as aforesaid, every such Order shall be as valid and effectual, and be in like Manner binding upon Her Majesty, Her Heirs and Successors, as if the said Consent had been given under the Provisions of this Act.

On an Exchange Inequality of Value may be compensated by a Rentcharge.

VI. Where the Value of any Land proposed to be exchanged under the Acts for the Inclosure, Exchange, and Improvement of Land, or any of them, exceeds the Value of the Land, Rights, Easements, or Hereditaments for which the same is proposed to be exchanged, the Difference in Value may be compensated by a perpetual Rentcharge of such Amount as in the Opinion of the Valuer or Commissioners (as the Case may require) will be just, to be charged upon the Land for the Excess in Value whereof the same is intended as an Equivalent, or upon such Part thereof as may appear to the Valuer or Commissioners (as the Case may require) to afford sufficient Security for such Rentcharge.

On a Partition Disproportion in Value of Allotments in Severalty may be compensated by a Rentcharge.

VII. Where any Land of which a Partition is proposed to be made under the said Acts or any of them cannot in the Opinion of the Valuer or Commissioners (as the Case may be) be conveniently allotted in Severalty in Parts or Shares of the like proportional Values as the undivided Parts or Shares in respect whereof the Partition is proposed to be made, the Difference in such proportional Values may be compensated by a perpetual Rentcharge of such Amount, or perpetual Rentcharges of such aggregate Amount, as in the Opinion of the Valuer or Commissioners (as the Case may require) will be just, to be charged on the Land or respective Lands for the Excess in Value whereof the same is or are intended as an Equivalent or Equivalents, or upon such Part or respective Parts of such Land or Lands as may appear to the Valuer or Commissioners (as the Case may require) to afford sufficient Security for such Rentcharge or Rentcharges respectively.

Deficiency in Value not to exceed One Eighth of the actual Value.

VIII. Provided always, That nothing herein contained shall extend to authorize any Exchange or Partition, or the Creation of any such Rentcharge as aforesaid, where in the Opinion of the Valuer or Commissioners (as the Case may be) the Deficiency in Value of any Land or other Hereditaments which would require to be compensated as aforesaid exceeds One Eighth Part of the actual Value thereof.

IX. The

Amount of Rentcharge and Lands to be charged to be determined by the Inclosure Award or Order of Exchange, &c.

IX. The Amount of the Rentcharge or respective Amounts of the Rentcharges (as the Case may be) to be created under this Act, on any such Exchange or Partition as aforesaid, and the Land or Lands to be charged therewith, shall respectively be fixed and determined by the Inclosure Award or Order of Exchange or Partition (as the Case may require).

Indefeasible Title and Priority and Recovery of Rentcharges.

X. Every such Rentcharge shall be a valid and indefeasible Charge upon the Land charged therewith by the confirmed Inclosure Award or the confirmed Order of Exchange or Partition (as the Case may be), subject only to Tithe Rentcharges, Land Tax, local Rates and Taxes, Quit or Chief Rents incidental to Tenure, and Charges created or to be created under any Act authorizing Advances of public or private Money for Drainage or the Improvement of Lands, and prior to all other Charges whatsoever, and shall be recoverable in the same Manner as a Tithe Rentcharge charged under the Act of the Session holden in the Sixth and Seventh Years of King *William* the Fourth, Chapter Seventy-one, "for the Commutation of Tithes in *England* and *Wales*."

Rentcharge to go with the Land the Deficiency in Value whereof it compensates.

XI. Every Rentcharge created under this Act shall be and enure to, for, and upon the same Uses, Trusts, Intents, and Purposes, and be subject to the same Conditions, Charges, and Incumbrances, as the Land or Hereditaments in respect of the Deficiency in Value whereof such Rentcharge is made payable will stand and be limited and subject to after the Confirmation of the Inclosure Award or the Order of Exchange or Partition (as the Case may be).

Protecting from Nuisances Town and Village Greens and Allotments for Exercise and Recreation.

XII. And whereas it is expedient to provide summary Means of preventing Nuisances in Town Greens and Village Greens, and on Land allotted and awarded upon any Inclosure under the said Acts as a Place for Exercise and Recreation: If any Person wilfully cause any Injury or Damage to any Fence of any such Town or Village Green or Land, or wilfully and without lawful Authority lead or drive any Cattle or Animal thereon, or wilfully lay any Manure, Soil, Ashes, or Rubbish, or other Matter or Thing thereon, or do any other Act whatsoever to the Injury of such Town or Village Green or Land, or to the Interruption of the Use or Enjoyment thereof as a Place for Exercise and Recreation, such Person shall for every such Offence, upon a summary Conviction thereof before Two Justices, upon the Information of any Churchwarden or Overseer of the Parish in which such Town or Village Green or Land is situate, or of the Person in whom the Soil of such Town or Village Green or Land may be vested, forfeit and pay, in any of the Cases aforesaid, and for each

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and every such Offence, over and above the Damages occasioned thereby, any Sum not exceeding Forty Shillings; and it shall be lawful for any such Churchwarden or Overseer or other Person as aforesaid to sell and dispose of any such Manure, Soil, Ashes, and Rubbish, or other Matter or Thing as aforesaid; and the Proceeds arising from the Sale thereof, and every such Penalty as aforesaid, shall, as regards any such Town or Village Green not awarded under the said Acts or any of them to be used as a Place for Exercise and Recreation, be applied in aid of the Rates for the Repair of the public Highways in the Parish, and shall, as regards the Land so awarded, be applied by the Persons or Person in whom the Soil thereof may be vested in the due Maintenance of such Land as a Place for Exercise and Recreation; and if any Manure, Soil, Ashes, or Rubbish be not of sufficient Value to defray the Expense of removing the same, the Person who laid or deposited such Manure, Soil, Ashes, or Rubbish shall repay to such Churchwarden or Overseer or other Person as aforesaid the Money necessarily expended in the Removal thereof; and every such Penalty as aforesaid shall be recovered in manner provided by the Act of the Session holden in the Eleventh and Twelfth Years of Her Majesty, Chapter Forty-three; and the Amount of Damage occasioned by any such Offence as aforesaid shall, in case of Dispute, be determined by the Justices by whom the Offender is convicted; and the Payment of the Amount of such Damage, and the Repayments of the Money necessarily expended in the Removal of any Manure, Soil, Ashes, or Rubbish, shall be enforced in like Manner as any such Penalty.

Power to Commissioners to review Instructions given under Section 34 of 8 & 9 Vict. c. 118. as to Appropriation of Allotments for Sites of Schools, &c.

XIII. Where Instructions shall have been or shall hereafter be given under the Thirty-fourth Section of the Act of the Eighth and Ninth Years of the Reign of Her Majesty Chapter One hundred and eighteen, for the Appropriation of any Allotment for the Site of a School, and such Instructions shall not set forth with sufficient Clearness for what Class of Children the School shall be provided, or to whom the Site shall be conveyed or in what Manner and by whom the School shall be managed, visited, and inspected, the Inclosure Commissioners shall, upon the Requisition of any Five Persons if there be so many, or if not, a Majority of the Persons interested in the Land to be inclosed, call a further Meeting in order to resolve upon other or further Instructions; and if at such Meeting any other or further Instructions be agreed upon, the same, if sanctioned by the Commissioners, shall thenceforth be added to or substituted for, as the Case may require, all former Instructions relative to such School, and the Commissioners shall appoint (whenever needful) some Person to convey the Allotment for a School in pursuance of the Instructions last approved.



XIV. This

Act deemed Part of "The Acts for the Inclosure, &c. of Land."

XIV. This Act shall be taken to be a Part of the said Acts, and shall be construed therewith, and be deemed to be included under any Reference to "The Acts for the Inclosure, Exchange, and Improvement of Land."

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