

ANNO VICESIMO OCTAVO

VICTORIÆ REGINÆ.

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CAP. XXVIII.

An Act to authorize certain Payments out of the Land Revenues of the Crown to provide Compensation for certain Claims in the *Isle of Man*. [26th *May* 1865.]

WHEREAS an Act of Tynwald was passed and promulgated by the Legislature of the *Isle of Man*, entitled "The *Isle of Man* Disafforesting Act, 1860," and by such Act certain Commissioners were to be appointed for carrying the same into execution, and by the Fifth Section of such Act such Commissioners were directed to ascertain, subject to the Proviso in that Section contained, the Boundaries of the Lands in the Forest in the *Isle of Man* uninclosed or which ought to be uninclosed, which Lands so intended to be ascertained were therein-after called the uninclosed Forest, and to determine all Claims relating to such Boundaries, which Boundaries, as ascertained by the said Commissioners, it was enacted should be conclusively deemed to be the true Boundaries of the uninclosed Forest for all the Purposes of that Act, provided that it should not be lawful for the said Commissioners to include within the said Boundaries any Part of the Shore of the Sea, or of any Creek, Bay, or Inlet thereof, so far as the Tide flowed at ordinary Spring Tides; and by the Sixth Section

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of the same Act the Commissioners were empowered, subject as in the said Act is mentioned, to sell any Part of the uninclosed Forest to defray Expenses; and by the Eighth Section of the same Act the said Commissioners were directed to receive Evidence as to the Nature and Value of the Rights of Her Majesty in the uninclosed Forest (other than the Rights in the same Section specified), and to allot to Her Majesty such Part of the uninclosed Forest, subject as in the said Act mentioned, as the said Commissioners should deem to be a sufficient and adequate Compensation for the said Rights of Her Majesty; and by the said Act it was enacted that the Part of the uninclosed Forest to be so allotted to Her Majesty should, on the making of the First Award in the said Act mentioned, remain or be absolutely vested in Her Majesty in right of Her Crown, as Part of the Possessions and Land Revenues of the Crown, freed from all Rights and Claims whatsoever, and that the Residue of the uninclosed Forest, in the said Act called the Commoners Allotment (after making the Sales and Allotments in the said Act mentioned), should, on making the First Award, and subject as in the said Act mentioned, be held by Her Majesty (until the same might be inclosed under the Second Award in the said Act mentioned) in trust for the several Persons for the Time being entitled to Rights of Common over the uninclosed Forest; and by the Fourteenth Section of the same Act it was provided, that, until the First Award had been made, any Memorandum in Writing under the Hands of the Commissioners of that Act, or any Two of them, should be sufficient Evidence of any Decision of such Commissioners; and by the said Act, after the making of the First Award, the Commissioner, in the said Act called the Third Commissioner, was directed to ascertain, by the Award, in the said Act called the Second Award, the several Persons entitled to Rights of Common over the uninclosed Forest, and to divide and allot the Commoners Allotment among such Persons, to set out Turbaries, Roads, Ways, and Fences, and to sell Land for Payment of Expenses: And whereas another Act of Tynwald was passed and promulgated in the last Year, entitled "An Act for making Compensation for certain Claims "in regard to certain Lands affected by the *Isle of Man* "Disafforesting Act, 1860," whereby, after reciting the last mentioned Act, and that *George Wingrove Cooke*, *Nathan Wetherell* (the Third Commissioner), and *James Henry Patteson*, Esquires, Barristers-at-Law, the Commissioners appointed to carry the said first-recited Act into execution, by a Memorandum in Writing dated the Twenty-fourth Day of *August* One thousand eight hundred and sixty-one, under their Hands, after reciting that they had ascertained the Boundaries of the Lands in the said Forest uninclosed or which ought to be uninclosed, did thereby make their Declaration

Declaration of the Boundaries of the uninclosed Forest in manner therein mentioned; and the said Commissioners further declared that it was their Intention that their Declaration should be construed with reference to certain Plans or Maps thereunto annexed, and that in case of any Doubt or Ambiguity arising from any Statement in that Declaration the Boundary Line indicated on the said Plans or Maps was on all Occasions to be deemed to afford conclusive Evidence as to the Direction of the true Boundary Line of the said uninclosed Forest; and further reciting that the said Commissioners had taken divers Proceedings under the first-recited Act, but that they had not made their First Award pursuant thereto; and further reciting that certain Claims were made before the said Commissioners to Portions of the uninclosed Forest as defined by the first-recited Act and by the said Declaration of Boundaries, upon the alleged Grounds that Licences granted by or on behalf of the Lord for the Time being of the *Isle of Man* were in existence authorizing the Inclosure of the Lands therein and in the said Claims described, under which Licences the Claimants were entered as Tenants on the Lord's Books, and had regularly paid Rent to the Lord or Lady of the Isle for the Time being, and some of the said Claims were disallowed by the said Commissioners, and that it was reasonable that such Compensation in respect of certain of the said Claims so disallowed, and of such other Claims as might thereafter be made and allowed, should be made as was by that Act provided; it is by the Act of Tynwald now in recital enacted, that the Provisions of the same shall be carried into execution by the Third Commissioner for the Time being under "The *Isle of Man* Disafforesting Act, 1860;" and it is further enacted that out of the Monies therein-after mentioned, and called the Compensation Fund, the Third Commissioner shall be paid such a Sum, not exceeding Two hundred Pounds, as the Inclosure Commissioners for *England* and *Wales* shall think reasonable, by way of Remuneration for carrying the Act now in recital into execution; and that the Commissioner shall also, out of the same Fund, pay or retain all Costs and Expenses of employing any Land Surveyor and Valuer, and all other reasonable Expenses to be incurred by the Third Commissioner in the Performance of his Duties under the same Act, subject to the Allowance by the Inclosure Commissioners for *England* and *Wales* of all Sums to be paid or retained out of the Compensation Fund; and after making certain other Provisions, including Provisions for giving Notice for Claims to be sent in, and for hearing Claims and Objections thereto, it is enacted that the Third Commissioner shall not allow a Claim to Compensation in any of the following Cases; that is to say, 1. Unless the Claim was made before the Commissioners under

"The *Isle of Man* Disafforesting Act, 1860," and was disallowed by them on the Ground that the Terms of the Fifth Section of such Act precluded them from entertaining the same; 2. Or, in case where no Claim was made before the Commissioners, unless the Claimant was precluded or deemed himself to be precluded from making such Claim by reason of any Decision of the Commissioners to the Effect mentioned in the First Part of that Section; 3. Unless there is a Licence in existence, or sufficient Proof of a Licence having been granted, and not cancelled or disallowed by the Great Inquest, for the Inclosure of the Land in respect of which the Claim is made, and unless the Claimant or Person through whom he claims has been entered as the Tenant thereof in the Lords Books, and has paid Rent for the said Land to the Lord; 4. Unless the Boundaries of the Land in respect of which the Claim is made can be identified with the Description in the Licence, to the Satisfaction of the Third Commissioner; and, 5. Where any other Land than that in respect of which the Claim is made has been already inclosed under the Licence or Licences upon which the Claim is founded; and it is further enacted that the Decisions of the Third Commissioner upon all Claims to Compensation, and all other Matters referred to him under the Act now in recital, shall be final and conclusive; and it is further enacted that the Third Commissioner shall ascertain and decide what, at the Time of the Promulgation of "The *Isle of Man* Disafforesting Act, 1860," was the fair and reasonable marketable Value of the respective Interests of the several Persons whose Claims to Compensation may be established under the Act now in recital in the Lands referred to in their respective Claims, as such Lands and Interests then existed, and shall pay the Amount of the Value of each Claim to the Claimant, or to any Person legally entitled under him, out of the Compensation Fund, and shall apply the Balance, if any, of such Fund in manner following, that is to say, One Moiety thereof shall be paid to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, and the other Moiety shall be applied by the Third Commissioner as Part of the Second Award Fund mentioned in the recited Act; and in case it shall happen that the Compensation Fund, after Payment of the Remuneration, Costs, and Expenses by the Act now in recital directed to be defrayed thereout, is not sufficient to satisfy the aggregate Value of the Claims to Compensation allowed under such Act, such Fund, after such Payments thereout as aforesaid, shall be apportioned and be divided by the Third Commissioner between and among the Claimants whose Claims are allowed by him according to the Value of their respective Claims, and such apportioned Parts shall be paid accordingly; and it is further enacted that, in order

to provide the Fund in the Act now in recital called the Compensation Fund, to defray the Remuneration, Costs, and Expenses by such Act directed to be paid or retained thereout, and to answer such Claims as may be established before the Third Commissioner, there shall, subject as in the same Act mentioned, be raised such Sums, not exceeding in the whole the Sum of Five thousand Pounds, as may be necessary for the Purposes aforesaid; and it is further enacted that the Compensation Fund shall be raised in the Manner following, that is to say, One Moiety thereof shall, if the Parliament of the United Kingdom of *Great Britain* and *Ireland* shall so direct, be paid to the Third Commissioner by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues out of the Capital of Her Majesty's Land Revenue, and the other Moiety shall be raised and paid to the Third Commissioner by the Sale by the said Commissioner, in manner by that Act provided, of a Part of the Land which in the first-recited Act is described as the Commoners Allotment: Provided always, that no larger Sum than Two thousand five hundred Pounds in the whole shall be paid to the Compensation Fund by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, and that no larger Sum than Two thousand five hundred Pounds in the whole shall be paid to the Compensation Fund by the Third Commissioner, out of the Proceeds of Sale of Part or Parts of the said Commons Allotment; and that if, in order to raise the Moiety of the Compensation Fund to be raised out of the Proceeds of Sale of Part or Parts of such Allotment, any Sale or Sales shall take place which shall realize a net Sum exceeding in the whole Two thousand five hundred Pounds, the Amount of such Excess shall be applied by the Third Commissioner as Part of the Second Award Fund, under the Provisions of the said first-recited Act; and that the said Commissioner shall return to the Lieutenant-Governor, for the Information of the Public, an Account of all Monies which may have been received by him from the Sale of Lands under the Authority of the same Act, and of the Mode in which the same shall have been disbursed and applied; and the said Act of Tynwald now in recital contains Provisions relative to the Sale of Part of the Commoners Allotment to raise One Moiety of the Compensation Fund for making of the Award of the Third Commissioner, and for saving of Rights under the first-recited Act: And whereas it is expedient that the Commissioners of Her Majesty's Woods, Forests, and Land Revenues should, with the Consent of the Commissioners of Her Majesty's Treasury, be authorized to pay, out of the Capital of Her Majesty's Land Revenue, such Sum or Sums of Money, not exceeding in the whole the Sum of Two thousand five hundred Pounds, as may be necessary to provide One Moiety of

the Compensation Fund mentioned in the second-recited Act of Tynwald: 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, as follows; that is to say,

Commissioners of Woods, with Consent of Treasury, may make certain Payments out of Land Revenue to meet Claims in second-recited Act of Tynwald.

1. The Commissioners of Her Majesty's Woods, Forests, and Land Revenues may, with the previous Consent of the Commissioners of Her Majesty's Treasury, pay out of the Capital of Her Majesty's Land Revenue such Sums, not exceeding in the whole the Sum of Two thousand five hundred Pounds, as may be necessary to provide One Moiety of the Compensation Fund mentioned in the second-recited Act of Tynwald; and a Statement of every or any Payment so made, and of the Mode in which the same has been applied, shall be contained in the annual Report to Parliament which shall be first made by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues after such Payment takes place.

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