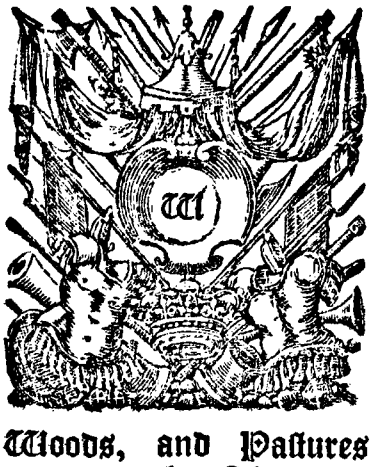
Anno vicesimo nono

Georgii II. Regis.

An Act for inclosing, by the mutual Consent of the Lord and Tenants, Part of any Common, for the Purpose of planting and preserving Trees fit for Timber or Underwood; and for more effectually preventing the unlawful Destruction of Trees.



WHEREAS by the Statute made at Merton, it was provided and granted, That Lords of Wastes, Woods, and Pastures, in which their Tenants have Common of Pasture, reserving to their Tenants sufficient Pasture, as much as belongeth to their Tenements, with sufficient Ingress and Egress to the same, may approve the Residue of such Wastes, Woods, and Pastures: And whereas by a Statute made in the Thirteenth Year of the Reign of King Edward

Statute at *Merton.*

Statute of 13 *Edw.* III.

Edward the Third, commonly called The Statute of *Westminster* the Second, it was ordained, That the said Statute of Merton should hold Place between Lords of Wastes, Woods, and Pastures, and their Neighbours, having Common Appurtenant therein; and Provision is thereby made against casting down Dykes and Hedges levied by such as have Right so to approve: And whereas by an Act made in the Third and Fourth Year of the Reign of King Edward the Sixth, intituled, An Act concerning the Approvements of Moors and Waste Grounds; the said Statutes, and all Articles thereof, then not repealed, were confirmed: And whereas the said Provisions for the Approvement of Wastes, Woods, and Pastures, have been, in many Cases, rendered ineffectual, by the Contradiction and Dissent of a few Persons having Right of Common in the said Wastes, Woods, and Pastures; who, under Pretence that sufficient Pasture is not reserved to them, disturb the Lords of such Wastes, Woods, and Pastures, or their Assigns, in the Possession of the Ground and Soil so approved, and discourage them from asserting their Right to make or continue such Approvement: And whereas the general Provisions made by an Act of the Thirty fifth Year of the Reign of King Henry the Eighth, and by several other Acts of Parliament, for preserving Woods; and the particular Provisions made by Two several Acts of Parliament of the Twentieth Year of the Reign of King Charles the Second, intituled, An Act for the Increase and Preservation of Timber within the Forest of *Dean*; and the other of the Ninth and Tenth Year of the Reign of King William the Third, intituled, An Act for the Increase and Preservation of Timber in the New Forest, in the County of *Southampton*; whereby Part of the Waste Lands of the said several Forests are directed to be inclosed and kept in Severalty for the Growth and Preservation of Timber, have not been duly put in Execution: And whereas, for want of a proper Supply of Timber of the Growth of this Kingdom, a great Quantity of Foreign Timber is necessarily used for building Ships and Houses, and for other Purposes; and the general Price of Timber and Wood is greatly increased: And whereas many Tracts of Waste Land, unfit for Tillage or Pasture, but capable of producing different Kinds of Trees, may conveniently be inclosed for the Growth of Timber

4 Act 3 & 4 *Edw.* VI.

35 *Hen.* VIII.

20 *Car.* II.

9 & 10 *W.* III.

Timber and Underwood, to the Advantage both of the Owners of the Ground and Soil of such Wastes, and also such as have Right of Common therein; and such Inclosure will also be of publick Utility; be it therefore enacted by the King'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 it shall and may be lawful to and for His Majesty, His Heirs, and Successors, and all other Owners of Wastes, Woods, and Pastures, in that Part of Great Britain called England, wherein any Person or Persons, or Body or Bodies Politick or Corporate, hath or have Right of Common of Pasture, by and with the Assent of the major Part in Number and Value of the Owners and Occupiers of Tenements to which the said Right of Common of Pasture doth belong, and to and for the major Part in Number and Value of the Owners and Occupiers of such Tenements, by and with the Assent of the Owner or Owners of the said Wastes, Woods, and Pastures, and to and for any other Person or Persons, or Body Politick or Corporate, by and with the Assent and Grant of the Owner or Owners of such Wastes, Woods, and Pastures, and the major Part in Number and Value of the Owners and Occupiers of such Tenements, to inclose and keep in Severalty, for the Growth and Preservation of Timber or Underwood, any Part of such Wastes, Woods, and Pastures, for such Time, and in such Manner, and upon such Conditions, as shall be agreed by them respectively.

Proprietors of Wastes, &c.

and Persons having a Right of Common thereon,

may, by mutual Consent, inclose any Part thereof, for planting and preserving Timber or Underwood.

Provided nevertheless, and be it enacted by the Authority aforesaid, That in case any Recompence shall be agreed to be given for such Inclosure, to, or to the Benefit of the Owners and Occupiers of Tenements, to which the Right of Common in such Wastes, Woods, and Pastures doth belong, such Recompence shall be made either by a Grant of a Share of the Profit which shall arise from the Sale of the Timber or Underwood growing on the Ground or Soil so inclosed, or by a Grant of other Lands, Tenements, or Hereditaments; or by some Annuity or Rent-charge issuing out of the said Ground or Soil so inclosed, or out of other Lands, Tenements, or Hereditaments; or shall be paid in Money, to be placed out at Interest

If any Recompence be agreed thereupon to be given to the Tenant; how, and in what Manner, the same is to be made, and applied.

on publick Securities, or laid out in the Purchase of Lands, Tenements, or Hereditaments, or of some Annuity or Rent-charge issuing out of Lands, Tenements, or Hereditaments, and the Produce of such Lands, Tenements, or Hereditaments, or such Annuity or Rent-charge, or the Interest of such Money, until the same shall be laid out in such Purchase as aforesaid, shall be paid, from time to time, to the Overseers or Overseer of the Poor of the said Parish or Township, and shall be by them or him applied towards the Relief of the Poor of the Parish or Township where such Wastes, Woods, or Pastures shall lie, and accounted for in such Manner as the Rates for Relief of the Poor are by Law directed to be accounted for; and in case the Owner or Owners of any such Wastes, Woods, or Pastures, and the major Part in Number and Value of the Owners and Occupiers of the Tenements, to which such Right of Common doth belong, shall jointly agree to assign and grant their respective Right and Interest in any Part of the said Wastes, Woods, or Pastures, for the Purpose of making such Inclosures as aforesaid, to any other Person or Persons, or Body Politick or Corporate; and the Owner or Owners of such Wastes, Woods, and Pastures, shall not have an Estate in Fee-simple therein, or shall be disabled or restrained from alienating the same, the Recompence to be paid to any such Owner or Owners, shall be either by a Grant of a Share of the Profit which shall, from time to time, arise from the Sale of the Timber or Underwood growing on the Ground or Soil so inclosed, or by a Grant of other Lands, Tenements, or Hereditaments, or of an Annuity or Rent-charge issuing out of the said Ground or Soil so inclosed, or out of other Lands, Tenements, or Hereditaments; such Equivalent to be held and enjoyed by the Owner or Owners of such Wastes, Woods, and Pastures, and such as shall be intitled to the same, in Reversion, Remainder, or Succession, in like Manner as the Estate in such Wastes, Woods, or Pastures, is limited to be held and enjoyed; and in case the Inhabitants of any Parish or Township, shall be willing to acquire such Right of Inclosure, for the Employment and Benefit of the Poor of the said Parish or Township, and any Recompence shall be agreed to be given for the same, it shall and may be lawful for the Overseer or Overseers of the

If Lords and Tenants join in assigning over their respective Rights of Inclosure to any other Persons,

how Recompence is to be made to the Lord, if he have not the Fee-simple therein, or be disabled to alienate.

Parish willing to purchase such Right for the Employment and Benefit of their Poor,

the Poor of such Parish or Township (by the Consent and Direction of the major Part of the Inhabitants thereof, assembled at a Vestry or publick Meeting to be held for that Purpose, publick Notice being first given of such intended Vestry or Meeting, in the Church or Chapel belonging to such Parish or Township, on Three Sundays at the least before such Vestry or Meeting shall be held) to pay or purchase such Recompence out of any Monies arising from the Rates raised, or to be raised, for the Relief of the Poor; and out of such Monies to pay, from time to time, such Charges and Expences as shall be necessary for inclosing and preserving such Grounds so inclosed; and such Overseers or Overseer shall, from time to time, apply the Profit which shall arise from the Sale of the Timber or Underwood growing thereon, towards the Relief of the Poor of the said Parish or Township; and shall account for the same in like Manner as he and they is and are by Law obliged to account for the Rates collected for the Relief of the Poor.

Recompence, and other Charges, to be paid out of the Poors Rate,

and the Profits to be applied in Aid thereof.

Provided always, That every Agreement for any such Inclosure shall be in Writing, and signed by the Parties, and the same shall be registered and inrolled by the Clerk of the Peace for the County, Riding, or Division, where such Wastes, Woods, or Pastures, or the greater Part of them, shall lie, within Three Months next after the Execution of such Agreement.

Agreements to be signed and registered within Three Months after Execution.

Provided also, and be it enacted, That it shall and may be lawful to and for all Persons, or Bodies Politick or Corporate, who shall think themselves injured or aggrieved by such Agreement, or for any Persons in their Behalf, within Six Months next after any such Agreement shall be registered and inrolled in Manner aforesaid, to make Complaint thereof by Appeal to the Justices of the Peace at any Quarter Sessions to be held for the same County, Riding, or Division, who are hereby authorized and required to hear and determine such Appeal, and whose Determination therein shall be final; and if no such Appeal shall be made, then the said Agreement so registered and inrolled as aforesaid, shall be for ever binding to all Persons whatsoever, without any further or other Appeal.

Persons aggrieved by such Agreement, may appeal to the Quarter Sessions within a limited Time.

In case there be no Appeal, Agreement to stand good.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for all Bodies Politick or Corporate, whether Aggregate or Sole, and

Bodies Politick, Guardians, and Trustees, impowered to agree to any such Inclosure.

and all Feoffees in Trust, Executors, Administrators, Guardians, Committees, or other Trustees whatsoever, for and on the Behalf of any Infants, Femes Covert, Lunaticks, Ideots, or other Persons whatsoever, and the Husbands of Femes Covert, who shall be seised, possessed of, or interested in, any such Waste, Wood, or Pasture, or any Right of Common in such Wastes, Woods, or Pastures, to agree to any such Inclosure; and all such Agreements, so made, shall be valid to all Intents and Purposes; and such Bodies Politick or Corporate, Feoffees in Trust, Executors, Administrators, Guardians, Committees, and other Trustees and Husbands of Femes Covert, shall be indemnified for what they shall so do by virtue of this Act.

If any Trees growing within such Inclosures shall be unlawfully cut or destroyed,

And be it further enacted by the Authority aforesaid, That if any Person, from and after the Time hereby limited for bringing such Appeal against any such Agreement for the Inclosure of any Part of such Wastes, Woods, or Pastures, shall either by Day or by Night unlawfully cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away, any Trees growing within any such Inclosure, without the Consent of the Owner or Owners thereof, such Owner or Owners shall have such Remedy, and have and receive such Satisfaction and Recompence of and from the Inhabitants of the Parishes, Towns, Hamlets, Villages, or Places adjoining to such Inclosures, and recover such Damages against the Inhabitants of such Parishes, Towns, Hamlets, Villages, or Places adjoining, and in the same Manner and Form as is directed for Dykes and Hedges overthrown by the said Act made in the Thirteenth Year of the Reign of King Edward the First, unless the Offender or Offenders shall be convicted of such Offence within the Space of Six Months next after the Commission thereof.

Damage to be made good by the adjoining Parish;

unless the Offender be convicted within 6 Months.

Offences to be tried and determined by Two Justices, or at the Sessions.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any Two Justices of the Peace of the County, Riding, Division, City, Town, Liberty, or Place, wherein any such Offence shall be committed, or for the Justices of the Peace for such County, Riding, Division, City, Town, Liberty, or Place, in open Sessions, upon Complaint to them made, to cause every such Offender to be apprehended for such Trespass, and to hear and determine

the same, and to inflict the like Penalty and Punishment on every Offender by them convicted, as is directed to be inflicted on Offenders by an Act made in the Sixth Year of the Reign of His late Majesty King George the First, intituled, An Act to explain and amend an Act passed in the First Year of His Majesty's Reign, intituled, *An Act to encourage the planting of Timber Trees, Fruit Trees, and other Trees for Ornament, Shelter, or Profit; and for the better Preservation of the same; and for the preventing the burning of Woods; and for the better Preservation of the Fences of such Woods.*

Penalty on Conviction, the same as is enacted by Act 6 *Geo.* I.

And be it further enacted by the Authority aforesaid, That if any Person from and after the First Day of July, One thousand seven hundred and fifty six, shall unlawfully cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away, any Tree growing in any Waste, Wood, or Pasture, in which any Person or Persons, or Body or Bodies Politick or Corporate, hath or have Right of Common, every such Offender shall and may be in like Manner convicted of such Offence, and shall incur the like Penalty.

and Persons unlawfully cutting or destroying Trees on Commonable Grounds,

to be in like Manner convicted, and punished.

And whereas by an Act made in the Ninth Year of the Reign of His late Majesty King George the First, intituled, An Act for the more effectual punishing wicked and evil disposed Persons going armed in Disguise, and doing Injuries and Violence to the Persons and Properties of His Majesty's Subjects, and for the more easy bringing Offenders to Justice; it is amongst other Things enacted, That the Inhabitants of every Hundred within that Part of Great Britain called England, shall make full Satisfaction and Amends to all and every Person and Persons, their Executors and Administrators, for the Damages they shall have sustained or suffered by the cutting down or destroying any Trees which shall be done or committed by any Offender or Offenders against the said Act, to be recovered in Manner as by the Act is directed: And whereas Doubts have arisen whether the Provision made by the said Act made in the Ninth Year of the Reign of his said late Majesty, has not repealed and annulled the Remedy given by the said Acts of the First and Sixth Years of the Reign of His said late Majesty: For obviating the said Doubt; be it enacted by the Authority aforesaid, That from and after the First Day of July, One thousand seven hundred and fifty six, it shall and may be lawful for any Person, or Body Politick or Corporate, to take Remedy for the before-mentioned Damages, either against the Parish, Town,

Doubt arising on Clause in Act 9 *Geo.* I. obviated,

and Remedy for Damages mentioned in the said Clause, may be taken according to the recited Acts of 1 and 6 *Geo.* I.

Town, Hamlet, Hill, or Place, where any of the said Offences shall be committed, according to the Powers given by the said Acts of the First or Sixth Years of His said late Majesty's Reign, or on the Hundred wherein any of the said Offences shall be committed, as to such Person, or Body Politick or Corporate, shall seem most meet; any thing in the said Act made in the Ninth Year of the Reign of His late Majesty to the contrary notwithstanding.

And be it further enacted by the Authority aforesaid, That if any Action shall be brought against any Person for any Matter or Thing done by virtue or in Execution of this Act, the Defendant or Defendants in every such General Issue. Action shall and may plead the General Issue, and give this Act, and the Special Matter in Evidence, on any Trial to be had in such Action; and if the Plaintiff or Plaintiffs shall discontinue such Action, or become Nonsuit, or if Judgement shall be given against such Plaintiff, then the Defendant or Defendants, in every Treble Costs. such Action, shall recover Treble Costs of Suit.

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FINIS.