ANNO DECIMO TERTIO

Georgii III. Regis.

CAP. LXXXI.

An Act for the better Cultivation, Improvement, and Regulation, of the Common Arable Fields, Waſtes, and Commons of Paſture, in this Kingdom.

WHEREAS there are, in ſeveral Pariſhes and Places in this Kingdom, ſeveral Waſtes and Commons, and ſeveral Open and Common Fields, which, by reaſon of the different Intereſts the ſeveral Land Owners and Occupiers, or Perſons having Right of Common, have in ſuch Waſtes, Commons, and Fields, cannot be improved, cultivated, or enjoyed, to ſuch great Advantage for the Owners and Occupiers thereof, and Perſons having Right of Common, as they might be, and are capable of, if an improved Courſe of Husbandry was to be purſued, reſpecting ſuch Open and Common Fields, in each Pariſh reſpectively, and ſuch Waſtes, or Commons of Paſture, Preamble.

Pasture, were to be properly drained, or otherwise amended; may it therefore please your Majesty that it may be enacted; and be it 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 in every Parish or Place in this Kingdom, where there are Open or Common Field Lands, all the Tillage or Arable Lands lying in the said Open or Common Fields shall be ordered, fenced, cultivated, and improved, in such Manner, by the respective Occupiers thereof, and shall be kept, ordered, and continued, in such Course of Husbandry, and be cultivated under such Rules, Regulations, and Restrictions, as Three-fourths in Number and Value of the Occupiers of such Open or Common Field Lands in each Parish or Place, cultivating and taking the Crops of the same, and having the Consent of the Owners in Manner herein-after mentioned, and likewise the Consent of the Rector, Impropriator or Tithe Owner, or the Lessee of either of them respectively, first had in Writing, shall, at a Meeting, (in pursuance of Notice for that Purpose, in Writing, under the Hands of One-third of such Occupiers, to be affixed on One of the principal Doors of the Parish Church, Chapel, or Place, where Meetings have been usually held for such Parish or Place respectively, Twenty-one Days, at least, before such Meeting, specifying the Time and Place of such Meeting), by Writing under their Hands, constitute, direct, and appoint; and which Notice any of such Occupiers are hereby authorised and impowered to give.

How Arable Lands shall be fenced.

Provided always, That the Rules, Regulations, and Restrictions, so agreed upon, shall not be in Force, or binding upon any of the Parties thereto, for any longer Term than Six Years, or Two Rounds, according to the ancient and established Course of each Parish or Place respectively.

Rules not to be longer binding than 6 Years.

And

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And be it further enacted by the Authority aforesaid, That at every such Meeting to be had as aforesaid, it shall and may be lawful to and for the major Part in Number and Value of the Occupiers (then present) of such Open or Common Field Lands, in each Parish or Place respectively, to elect and chuse One or more proper Person or Persons as Field Master or Field Reeve, Field Masters or Field Reeves, to superintend the ordering, fencing, cultivating, and improving, of such Open and Common Fields, and to see that the same are kept, ordered, and continued, in such a Course of Husbandry, as shall be constituted, directed, and appointed, at such Meeting, in Manner aforesaid; and that such Field Master or Field Reeve, so to be elected and chosen as aforesaid, shall continue in the said Office until the Twenty-first Day of May, then next following, or within Three Days after, and no longer, unless he or they shall be thereto re-elected and chosen in Manner herein-after directed. Field Master how to be appointed.

And be it further enacted by the Authority aforesaid, That all Costs, Charges, and Expences, necessary for the carrying on any such Plan of ordering, fencing, cultivating, or improving, into Execution, as shall be agreed upon in Manner aforesaid, and which shall, at any Meeting to be held after Six Days Notice having been given in Manner herein-before directed, by the major Part in Number and Value of the Occupiers aforesaid then present, be deemed common Expences, and, for the general Benefit of the said Occupiers, shall be borne, paid, and defrayed, proportionably by all the Occupiers of such Open and Common Field Lands, according to the Value of the Lands and Grounds each Person or Persons shall have in such Open and Common Field Lands; and for the raising the same, One or more Assessment or Assessments, upon all and every the Occupiers of Common Field Lands in each Parish respectively, shall be made, Expences how to be defrayed.

levied, and collected, by such Person and Persons, and allowed in such Manner, as such Majority of the Occupiers of such Open and Common Field Lands, at such Meeting to be had as aforesaid, shall direct and appoint in that Behalf; and the Money thereby raised shall be employed and accounted for, according to the Orders and Directions of such Majority of the Occupiers of such Common Field Lands, for and towards the better Cultivation of the said Common Field Lands, from Time to Time, as Need shall require; and the said Assessments shall, by virtue of a Warrant under the Hand and Seal of One Justice of Peace of the County wherein such Common Field Lands shall lie, be levied by Distress and Sale of the Goods and Chattels of every Person so assessed and not paying the same, within Ten Days after Demand, rendering the Overplus of the Value of the Goods so distrained (if any) to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress and Sale.

Occupiers of Common Field Lands in every Parish how to assemble and elect Field Reeves.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the Occupiers of Open and Common Field Lands, in any Parish or Place where any Rules, Orders, or Regulations shall have been agreed upon, for the ordering, fencing, cultivating, or improving of such Lands, in pursuance of this Act, and they are hereby required to meet and assemble at some convenient Place, yearly, and every Year, on the Twenty-first Day of May, or within Three Days after, in pursuance of Six Days Notice to be given of the Time and Place of such Meeting by One-third of the Occupiers, in Manner aforesaid, then and there to elect and chuse One or more proper Person or Persons to be the Field Master or Field Reeve, Field Masters or Field Reeves, for the Year ensuing; and that such Person or Persons who shall, by the major Part of the

the Occupiers of the said Lands, present at such Meeting, be chosen Field Waster or Field Reeve, Field Wasters or Field Reeves, to superintend the ordering, fencing, cultivating, and improving of the said Common Field Lands, and to see that the same are cultivated according to the Rules, Orders, and Regulations, agreed upon at the General Meeting for that Purpose, and shall continue in the said Office for One whole Year, unless he shall die, or be removed, by virtue of the Power and Authority herein-after given in that Behalf.

New Field Reeves to be appointed in place of those who shall die, or refuse to attend.

Provided always, and be it enacted by the Authority aforesaid, That if any Field Waster or Field Reeve, so to be chosen in pursuance of this Act, shall, within the Year in which he shall be so chosen, refuse or neglect to attend the said Business, or shall die, or remove to an inconvenient Distance, or become Bankrupt, or have Execution against his Body or Goods, or by Sickness, or otherwise, be rendered incapable of executing his said Office; that then, and in either of the said Cases, it shall and may be lawful to and for the Occupiers of the said Lands, (after Six Days Notice for that Purpose to be given in manner aforesaid), to elect and chuse, in manner aforesaid, One other fit and proper Person to be the Field Waster or Field Reeve for the Remainder of that Year, in the Place and Stead of the former Field Waster or Field Reeve falling under either of the Descriptions aforesaid.

Occupiers at Meetings, to settle the Time of opening Common Field Lands.

And be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for Three-fourths in Number and Value of the Occupiers of Open and Common Field Lands, present at any Meeting to be held in pursuance of Fourteen Days Notice at least, previous to the usual Time of opening such Common Field Lands, to be given for that Purpose, in manner aforesaid, to postpone the opening such Common Field Lands for such reasonable Time as at such Meeting shall be thought necessary by

such Majority as aforesaid, and to settle and determine how long such common Fields shall continue open, and to limit and settle the Number of Cattle each Occupier in such Parish or Place shall respectively turn on such common Fields, in due Proportion to the Stint or established Usage in such Parish or Place.

Cottage not to be excluded having Right of Common.

Provided always, nevertheless, and be it enacted by the Authority aforesaid, That nothing in this Act contained shall be construed to extend to exclude any Cottager, or other Person or Persons whomsoever, having Right of Common, and having no Land in any of the said common Fields from having and enjoying his or their Right of Common in as full and ample Manner as he could and might have enjoyed the same before the passing of this Act, unless such Cottager, or other Person, shall, at any Meeting to be held by the Occupiers of such Common Field Lands, in Manner aforesaid, consent or agree, in Writing, to a Composition for such Right, by an annual Payment, or other annual Advantage or Compensation, or to a Limitation thereof; in which Case such Consent and Agreement shall be binding and conclusive upon every such Person so agreeing, his Heirs and Assigns, Tenants and Occupiers, until such Time as the Rules, Orders and Regulations for the drawing, fencing, cultivating, and improving of the said Common Field Lands, existing at the Time of giving such Consent, shall expire.

How Common Field Lands may be enjoyed differently by Occupiers.

Provided always, nevertheless, and be it further enacted by the Authority aforesaid, That if the Occupiers of the said Common Field Lands shall, at Times when the said Fields have been usually enjoyed in common, consent and agree not to depasture the same in common, and shall allot and set apart what shall be deemed by a Majority of such Cottagers, who shall not have agreed to compound for or limit their Right of Common, as aforesaid, a sufficient and equivalent Common for such Cottagers, and other Persons, as aforesaid, to be enjoyed exclusively by them; that then, and in such Case, such

Cottagers and other Persons shall not use, exercise, or enjoy their Right of Common, over such Parts of the said Common Field Lands, as are not used in common by the Occupiers thereof, but only over such Part thereof as shall for such Time be allotted them for that Purpose, and set apart as aforesaid; any Law, Usage, or Statute, to the Contrary notwithstanding.

Saving of Right to Persons possessed of separate Sheep Walks, &c.

Provided always, and be it enacted by the Authority aforesaid, That nothing herein contained shall exclude any Person or Persons seized or possessed of a separate Sheep Walk, or Pasture of Cattle, in or over all or any of the Common Field Lands in any Parish or Place, or in or over any Part thereof, from using, exercising, and enjoying, such Right, in as full and ample Manner, to all Intents and Purposes, as he might or could have enjoyed the same before the passing this Act, unless such Person or Persons, having such Right as aforesaid, shall consent or agree in Writing at any Meeting of Occupiers, to be held as aforesaid, to a Composition for the same, or a Limitation thereof; in which Case, every such Consent and Agreement shall be binding and conclusive upon every Person so agreeing, and upon every other Person coming to the Possession of such Sheep Walk or Pasture for Cattle, by Descent, or otherwise, until such Time as the Rules, Orders, and Regulations, for the Cultivation of the said Common Field Lands, existing at the Time of entering into such Agreement, shall expire.

Balks, Slades, &c. with Consent of the Lords of Manors, &c. may be ploughed.

And whereas Balks, Slades, or Meers, which may be waste, do often lie very inconveniently interspersed amongst the arable Lands in Common Fields, be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any Person or Persons whomsoever, having Land in any Open or Common Fields adjoining to any such Balks, Slades, or Meers, being Waste, with the Consent of the Lord or Lords, Lady or Ladies, of the respective Manors wherein such Balks, Slades, or Meers, do lie, and likewise of the Person or Persons who may have a separate Sheep Walk in the said Fields, and with the Consent of Three-fourths in Number and Value of the Occupiers of such Common Field Lands,

to be ſignified at any Meeting to be held in Manner aforeſaid, to plow up any of the ſaid Balks, Slades, or Meers, and convert the ſame into Tillage, under the Regulations to be ſettled as aforeſaid.

Balks, &c. uſed as Roads not to be ploughed.

Provided always, nevertheleſs, and be it enacted, That no Balk or Meer, that has heretofore been uſed as a publick Road, or as a private Road, by any Perſon or Perſons, to or from his or their own Houſe or Lands, be ſo plowed up.

Regulations to be obſerved by Perſons having a Licence to plough Balks, &c.

Provided alſo, and be it further enacted by the Authority aforeſaid, That all and every Perſon and Perſons, who ſhall have Licence, in Manner aforeſaid, to plow up and convert into Tillage, any Balk, Slade, or Meer, ſhall, before he or they begin to plow up the ſame, lay down, in an husband-like Manner, under the Direction of the Field Maſter or Field Reeve for the Time being, in a more convenient Part of the ſaid Field, as much of his or their own Land as ſhall be equal in Value to the Land he or they ſhall ſo have Licence to plow as aforeſaid; and that ſuch Land ſo laid down ſhall be common Land, and ſo continue until the Regulations then exiſting for cultivating ſuch Common Field Lands, ſhall expire.

Boundary Stones to aſcertain every Perſon's Property may be erected.

Provided alſo, and be it further enacted by the Authority aforeſaid, That the Perſon or Perſons plowing any ſuch Balk, Slade, or Meer, ſhall, by proper Bound Stones, ſufficiently mark and diſtinguiſh the ſeveral Lands plowed, and the ſeveral Lands laid down in lieu thereof, ſo that the Property thereof, and each Perſon's Right therein, may be clearly known, and aſcertained.

Lords of Manors, &c. with Conſent of Three-fourths of Perſons having Right of Common, may leaſe a Twelfth Part of Waſtes,

And be it further enacted by the Authority aforeſaid, That it ſhall and may be lawful to and for the Lord or Lords, Lady or Ladies, of any Manor, with the Conſent of Three-fourths of the Perſons having Right of Common upon the Waſtes and Commons within his, her, or their Manor, at a Meeting to be held after Fourteen Days Notice, ſuch Notice to be given in Manner herein-before directed by the Lord or Lords, Lady or Ladies, of the Manor, or their Agent reſpectively, at any Time or Times, to demiſe or leaſe, for any Term or Number of Years, not exceeding Four Years, any Part of ſuch Waſtes

and

and Commons, not exceeding a Twelfth Part thereof, for the best and most improved yearly Rent that can by publick Auction be got for the same; and that the clear Net Rents reserved to the Lord or Lords, Lady or Ladies, his, her, or their Heirs, Executors, Administrators, or Assigns, by any Lease or Leases to be granted as aforesaid, shall be by him, her, or them, and the major Part of his, her, or their Tenants, applied in the draining, fencing, or otherwise improving of the Residue of such Wastes and Commons.

and the Net Rents to be applied for improving the Residue of such Wastes.

Provided always, nevertheless, and be it enacted by the Authority aforesaid, That in every Manor where there are stinted Commons, in lieu of demising or leasing Part thereof, One or more Assessment or Assessments upon the Lord or Lords, Lady or Ladies, of such Manor, and the Persons being Owners or Occupiers of such Commons, or their Agents or Managers, shall or may, at their Option, be made, levied, and collected, by such Person and Persons, and allowed in such Manner, as the Lord or Lords, Lady or Ladies, of such Manor, and the major Part in Number and Value of the Owners or Occupiers of such Commons, present at a Meeting to be held within the said Manor, in pursuance of Fourteen Days Notice to be given by the Lord or Lords, Lady or Ladies, or his, her, or their Agent, in Manner aforesaid, of the Time and Place of Meeting for that Purpose, shall direct and appoint in that Behalf; and the Money thereby raised shall be employed and accounted for, according to the Orders and Directions of the said Lord or Lords, Lady or Ladies, and such Majority of the Owners or Occupiers, as aforesaid, in the Improvement of such Commons, from Time to Time, as Need shall require; and the said Assessments shall, by virtue of a Warrant under the Hand and Seal of One Justice of the Peace, be levied by Distress and Sale of the Goods and Chattels of every Person so assessed, and not paying the same within Ten Days after being demanded, rendering the Overplus of the Value of the Goods so distrained (if any) to the Owner and Owners thereof, the necessary Charges of making such Distress and Sale being first deducted.

Assessments to be levied for the improving of Wastes where there there are stinted Commons.

And

Stinted Commons to be opened at a certain Time as Owners, &c. at a Meeting shall direct.

And whereas there are, in many Parts of this Kingdom, certain stinted Commons of Pasture which are never enjoyed in Severalty, but which are at certain Times shut up for the better Growth of the Pasture, and opened on certain fixed Days, from which, in particular Circumstances and Seasons, great Inconveniencies do and may arise; be it enacted by the Authority aforesaid, That it shall and may be lawful for the major Part in Number and Value of the Owners and Occupiers of such common Pastures, present at a Meeting to be held after Six Days Notice at least given, in Manner herein before directed, with the Consent of the Lord or Lords, Lady or Ladies, of the Manor or his, her, or their Steward or Agent, to postpone the opening of the said common Pastures for a Time not exceeding Twenty-one Days.

Two-thirds of Commoners, with Consent of the Lord of the Manor, &c. may direct the opening and shutting of common Pastures, *etc.*

And whereas there are in many Places common Pastures, with stinted or limited Rights of Common therein, which are open the whole Year, and it would be attended with great Advantages to the Commoners to shut up and unstock the same at particular Seasons; be it enacted by the Authority aforesaid, That it shall and may be lawful to and for Two-thirds in Number and Value of such Commoners, at a Meeting to be holden after Fourteen Days Notice given in Manner herein before directed, with the Consent of the Lord or Lords, Lady or Ladies, of the Manor or Manors in which such Commons are situated, his, her, or their Steward or Stewards, Agent or Agents, to direct, order, and fix the Time when such common Pastures shall be broke or depastured, and when the same shall be shut up and unstocked; such Orders to continue in Force for One whole Year, and no longer.

Proviso respecting Persons not consenting to the above Regulations.

Provided nevertheless, That a Portion of such common Pastures shall be separated and set apart for the Use of such Commoners exclusively as shall not consent to such Regulation, and the Portion so set apart shall be adjudged by a Majority of such Commoners not consenting as aforesaid, an Equivalent for their Rights of Common.

Persons having Right of Common may depasture Sheep instead of other Cattle.

And whereas many stinted common Pastures in this Kingdom are fed and depastured by Horses, Beasts or Neat Cattle, and in many Instances it would tend to

the Improvement of such common Pastures, and to the better manuring and Cultivation of the Arable Lands in common Fields, or otherwise, to which such common Pastures may belong, if the same were fed with Sheep; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful to and for the major Part in Number and Value of the Persons having Right of Common in such common Pastures, at any Meeting to be held in pursuance of Notice, in Writing, under the Hands of a major Part of such Owners and Occupiers of such common Pastures, or Persons having Right of Common therein, to be affixed on the principal Door of the Parish Church of the Parish where such common Pastures shall lie, or of the nearest Parish Church where such Lands shall lie in an extraparochial Place, Ten Days at least previous to such Meeting, specifying the Time and Place, and Intent of such Meeting, by Writing under their Hands, to alter and change the Manner and Custom of feeding and depasturing such common Pastures, so far as instead of Horses, Cows, and other Cattle, to allow the same to be fed and depastured with Sheep, at the Option of each Person respectively having Right of Common; and to limit and stint the Number of Sheep each such Person, having Right of Common in such common Pastures, shall respectively feed and depasture thereon, in due Proportion to their respective Stints or Rights.

Rams not to remain upon Wastes from *Aug.* 25, to *Nov.* 25.

And whereas the Improvement of the Breed of Sheep is a Matter of great national Importance, and the turning of Rams upon Wastes and Open Common Fields at certain Times of the Year has been found to be very prejudicial; be it therefore enacted by the Authority aforesaid, That no Ram shall be turned upon, or be suffered to remain upon, any Wastes or Common Fields, between the Twenty-fifth Day of August and the Twenty-fifth Day of November in every Year.

Persons formerly under Disability, under this Act may sign Agreements.

And whereas several of the Owners and Proprietors of Wastes, Commons, and Common Field Lands, may, at the Time of any Meeting to be held in pursuance of this Act, be incapable, through various Impediments, of entering into any of the Agreements hereby authorised to

be made, for the better ordering, fencing, cultivating, and improving, of Common Arable Fields, Wastes, and Commons of Pasture, in this Kingdom, without the Aid and Authority of Parliament; be it therefore further enacted, That it shall and may be lawful to and for the Husbands, Guardians, Trustees, Committees, or known Agent or Receiver of any Owner and Proprietor of Wastes, Commons, and Common Field Lands, and of any Person having a Right or Interest therein, being under Coverture, Minors, Lunaticks, or beyond the Seas, and for every or any of them for the Time being; and also to and for all and every or any of the said Owners and Occupiers, being Tenants in Tail, Tenants by the Courtesy of England, or Tenants for Life only, and to and for every or any of them respectively for the Time being, to enter into, and sign any Agreement to be made in pursuance of this Act.

Rectors or Tithe Owners, not to receive Gratuity for letting Tithes other than by Half-yearly or yearly Payments.

Provided also, and be it further enacted by the Authority aforesaid, That no Rector or Tithe Owner, in Right of his Rectory, Vicarage, or Curacy, or the Lessee of either of them respectively, who shall agree for or lett his Tithes of the said Common Field Lands, during the said Term of Six Years, or any Part thereof, shall receive any Fine, Foregift, Gratuity, or Compensation whatever, other than by equal Half-yearly or yearly Payments.

All Agreements made to be valid in Law.

And be it further enacted, That every Agreement to be entered into in pursuance of this Act, shall be good, valid, and effectual in the Law, for the Purposes thereby intended, notwithstanding the want of legal Title in the said Owner or Owners, or in the said Husbands, Guardians, Trustees, Committees, Agents, or Receivers, or in the Persons acting as such, or in the said Tenants in Tail, Tenants by the Courtesy of England, or Tenants for Life only, any Settlement or Settlements, Will or Wills, to the Contrary in anywise notwithstanding.

Consent of Occupiers not to be valid, without a written Authority under the Hand of the Proprietor.

Provided always, and be it enacted by the Authority aforesaid, That no Consent of any Occupier of Lands in such Common Arable Fields, or of a separate Sheep Walk therein, to any such first Agreement, for the ordering, fencing, cultivating, and improving of such Common

Fields, to be made by the Authority of or in pursuance of this Act, shall be good and valid, unless such Occupier shall, at the Time of entering into such Agreement, produce a written Authority for that Purpose, under the Hand of the Owner or Proprietor, Guardian, or Trustee; or in case of such Owner not being a Minor, and being in Parts beyond the Seas, of the known Agent of such Owner.

Actions may be brought at *Westminster*.

And be it further enacted by the Authority aforesaid, That if any Owner or Occupier of any Common Field Lands, or of any Part thereof, for the better Cultivation whereof any Rules and Regulations shall have been agreed upon, in pursuance of the Powers and Authorities given by this Act, shall not conform to such Rules and Regulations, or shall wilfully deviate therefrom in any Respect whatsoever; that then, and in such Case, it shall and may be lawful to and for any Owner or Owners, or Occupier or Occupiers, of any Part of such Common Field Lands, who may have been damnified by a Breach of the Regulations aforesaid, to bring One or more Action or Actions of Trespass, or upon the Case, in any of His Majesty's Courts of Record at Westminster against the Person or Persons so offending; and if in any such Action, so to be brought as aforesaid, a Verdict shall be given for the Plaintiff, or he shall recover Judgement by Default; that then, and in such Case, the Party or Parties so offending shall answer to the Party grieved all such Damages as shall be recovered in such Action, together with Double Costs of Suit.

No Person is hereby prevented from inclosing his Lands for his own Use.

Provided, That nothing in this Act contained shall prevent, or extend to prevent, any Person or Persons from inclosing all or any Part or Parts of his, her, or their Land, to and for his, her, or their own Use or Benefit, such Person or Persons having full Power or Right so to do.

Saving all Rights to His Majesty, Lords of Manors, &c.

Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every Lord or Lords, Lady or Ladies, of any Manor or Manors, and to all and every other Person and Persons, Bodies Politick or Corporate, his, her, and their Heirs, Successors,

cessors, Executors, and Administrators, (other than and except the respective Persons, their Heirs, Successors, Executors, and Administrators, who may, in consequence of this Act being duly carried into Execution, become subject to the Provisions and Regulations thereby authorised to be made,) all such Estate, Interest, and Rights, as they, every, or any of them, had or enjoyed in and over the said Common Arable Fields, Wastes, and Commons of Pasture, before the passing of this Act, or could or might have had and enjoyed in case the same had not been made.