CAP. XCVII.

An Act to amend and extend the Acts for the Inclosure, Exchange, and Improvement of Land. [10th *August* 1854.]

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

Lands subject to be inclosed may be exchanged pending Inclosure Proceedings.

I. The Provisions of the said Acts with respect to the Exchange and Partition of Land not subject to be inclosed under such Acts, or of Land subject to be inclosed under such Acts as to which no Proceedings for an Inclosure shall be pending, shall extend and be applicable to Land subject to be inclosed under such Acts whilst Proceedings for an Inclosure shall be pending.

Undivided Shares may be exchanged.

II. Undivided Shares in any Land or other Subject Matter of Exchange may be exchanged under the Provisions of the said Acts, upon the Application of the Person interested under the Provisions of the said Acts in respect of such undivided Shares.

Land to include incorporeal Hereditaments.

III. The Word "Land" shall extend to and include incorporeal as well as corporeal Hereditaments, and any undivided Share thereof.

Lessee the "Person interested" in certain Cases.

IV. Where any Land or Hereditaments shall have been leased for a Term which shall have exceeded One hundred Years from the Commencement thereof, and it shall be shown to the Satisfaction of the Commissioners that no Rent or Acknowledgment has been paid or given for the Period of Twenty Years, or that the Person entitled to the Rent reserved upon such Lease cannot, upon reasonable Inquiry, be ascertained, the Person in the actual Possession or Enjoyment of such Land or Hereditaments, or in the actual Receipt of the Rents and Profits thereof as Owner of such Term, shall be and be deemed to be the Person interested within the Provisions of the said Acts.

Orders of Exchange, &c. may be made upon Application of Parties in possession, &c.

V. It shall be lawful for the Commissioners, on the Application in Writing of the Parties in possession of any Lands, Tenements, or Hereditaments under any Agreement for the Exchange, Partition, or Division of the same or any of them, to proceed with such Exchange, Partition, or Division, under the Provisions of the said Acts; and such Application, and Order thereon, shall be as valid and effectual as if the Parties making such Application had been the Parties interested under the Provisions of the said Acts.

Extending Time for Application for Conversion of Land to be inclosed, &c.

VI. The Time limited by the said Acts for making an Application for the Conversion of Land which shall be directed to be inclosed under the said Acts, or any Part thereof, into a regulated Pasture, shall be extended to any Time before the Report of the Valuer has been sent to the Office of the Commissioners, although Instructions to the Valuer under their Seal may have been delivered to him.

Extending Time for Enrolment of Awards under Common Fields Act or Local Act.

VII. Where an Award under the Act of the Seventh Year of His late Majesty King *William* the Fourth, intituled *An Act for facilitating the Inclosure of Open and Arable Fields in* England *and* Wales, or under any Local Act of Inclosure, shall not have been duly enrolled within the Time limited in that Behalf, it shall be lawful for the Commissioners, if they shall think fit, upon the Application in Writing of any Person interested in the Land to which such Award shall relate, and upon its being shown to the said Commissioners that such Award has been acted upon by the Parties interested thereunder, by an Order under their Hands and Seal to extend the Time for such Enrolment to such Period as they shall think fit, and the Enrolment of any such Award within such extended Time shall have the same Force and Effect as if the same had been enrolled within the Time limited in that Behalf.

Tenure of Allotments in respect of Rights.

VIII. 'Whereas it is enacted by the first of the said Acts; that is to say, the Act of the 'Session holden in the Eighth and Ninth Years of Her Majesty, Chapter One hundred and 'eighteen, that all such Land as shall be taken in Exchange or on Partition, or be allotted, 'shall be held by the Person to whom it shall be given in Exchange or on Partition, or 'allotted, under the same Tenures, Rents, Customs, and Services as the Land in respect of 'which

'which such Land shall have been given in Exchange or on Partition, or allotted, would have 'been held in case no such Exchange, Partition, or Inclosure had been made, and Doubts 'have arisen whether Land taken in Exchange or on Partition, or allotted, in respect of '"Rights,," will follow the Tenure of such Rights:'

The Word "Land" in such recited Enactment shall include and be deemed to have included "Rights."

Fencing and making Roads dispensed with, in certain Cases.

IX. Whenever it shall appear to the Commissioners that any public Roads or Driftways set out by the Valuer in the Matter of any Inclosure are of such a Nature or so situate that it is not necessary, for Public Convenience, that the same should be fenced, or made of hard Materials, and certified by Two Justices, the Commissioners may, by any Order under their Hands and Seal, certify that the said Roads or Driftways are sufficiently formed, having Reference to the Nature or Situation thereof; and such Roads shall thenceforth be kept in repair by such Persons and in such Manner as like public Roads within the said Parish are or ought by Law to be kept in repair; but such last-mentioned Person shall not by such Obligation to repair be liable to convert the said Roads so set out into fenced Roads, or into Roads made of hard Materials.

Apportionment of Fee-farm Rents, &c.

X. In all Cases where any Lands or Hereditaments are charged with any Fee-farm Rent, Rent Seck, Rent of Assize, or Chief Rent, or other annual or periodical fixed Rent, or other certain Payment, any Persons respectively interested, according to the Provisions of the said Acts, in such Lands, and in the said Rent or other certain Payment as aforesaid issuing therefrom, may make Application in Writing to the said Commissioners to apportion the said Rent or other fixed Payment among all the Lands charged with the Payment thereof, and the Commissioners upon Receipt of such Application, shall, by themselves, or by an Assistant Commissioner, or other Person to be by them appointed for that Purpose, make Inquiry, and satisfy themselves as to the Expediency of such Apportionment: Provided always, that if in any Case there shall be any Doubt as to the Extent, Identity, or Boundaries of the Lands and Hereditaments charged with any such Rent or Payment, the Commissioners, Assistant Commissioner, or other Person appointed by them as aforesaid shall inquire into and ascertain such Extent, Identity, or Boundaries.

Order of Apportionment.

Order to determine Boundaries.

XI. If the said Commissioners, after Inquiry made, shall be satisfied of the Expediency of such Apportionment, they may and they are hereby empowered, by an Order under their Hands and Seal, to apportion such Rent or other fixed Payment among all the Lands charged with the Payment thereof, and also, where necessary, to determine the Extent, Identity, and Boundaries of the Land and Hereditaments charged with such Rent or Payment: Provided, that any specific Portion may, upon the Application of the Person interested in such Lands, be charged and apportioned upon any Close or Closes or other Part of the Estate in respect of which the said Portion of Rents or other fixed Payment was apportioned, so that in the Judgment of the said Commissioners such Part of the Estate be of not less than Six Times the annual Value of the Sum so charged thereupon.

Confirmation of Order.

XII. From and after the Confirmation of such Order by the said Commissioners, the Lands out of which the said Rent or other fixed Payment as aforesaid issued shall be chargeable in respect thereof only in the Manner and to the Extent directed and set forth in the said Order.

Recovery of apportioned Amounts.

XIII. And from and after the Confirmation of the said Order the Owner for the Time being of the said Rent or other fixed Payment as aforesaid, so far as the same has been apportioned upon the Lands of Persons interested and making Application as aforesaid, shall have all such Rights and Remedies for the Recovery of the apportioned Parts of such Rent or other fixed Payment as against the Portions of Land severally charged therewith respectively as such Owner would have had for the Recovery of such Rent or fixed Payment as against the Lands originally charged therewith in case no such Order had been made.

Expenses attending Apportionment.

XIV. The Persons making such Application as aforesaid shall pay the Expenses incident to such Apportionment in such Proportions and to such Amount as the Commissioners shall certify

certify in that Behalf; and the Commissioners, or any Person authorized by them for that Purpose, may take all such Proceedings and have all such Remedies for the Recovery of such Expenses as they, or the Valuer acting in the Matter of any Inclosure, now have or may at any Time hereafter by Law have for the Recovery of the Expenses of or incident to any Inclosure under the Powers of the said recited Act.

Application of Compensation for Common Rights paid under 8 & 9 Vict. c. 18.

XV. Where any Money shall have been or may hereafter be paid to a Committee under "The Lands Clauses Consolidation Act, 1845," or under any Railway or other Special Act by which Money may have been directed or authorized to be paid to a Committee as Compensation for the Extinction of Commonable or other Rights, or for Lands, being Common Lands or in the Nature thereof, the Right to the Soil of which may have belonged to the Commoners, and the Majority of such Committee shall be of opinion that the Provisions of such Act for the Apportionment thereof cannot be satisfactorily carried into effect, such Majority may make Application in Writing to the Commissioners to call a Meeting of the Persons interested in such Compensation Money, to determine whether or not such Compensation Money shall be apportioned under the Provisions of this Act.

Money to be paid into Bank of England.

XVI. If the Majority in Number and Interest shall resolve that such Compensation Money shall be apportioned, the Amount of such Compensation Money shall be forthwith paid into the Bank of *England*, to the Credit of an Account to be named by the Inclosure Commissioners for *England* and *Wales;* and the said Committee shall be absolutely discharged from all Liability in respect of such Compensation Money, upon Payment thereof into the Bank of *England* as herein-before directed.

Interest to be ascertained by Commissioners.

XVII. As soon as the said Monies shall have been paid into the Bank as aforesaid, the said Inclosure Commissioners, or any Assistant Commissioner appointed or to be appointed by them for that Purpose, shall proceed to ascertain, determine, and award the Names of the Parties who were entitled to such Estates, Rights, and Interests in the said Common and Commonable Lands, and the Amount or Value of their respective Shares, Rights, and Interests therein, and the proportionate Amount of the Price so to be paid as aforesaid for such Estates, Rights, and Interests to which each Party so entitled as aforesaid is entitled, in respect of his Share, Right, or Interest as aforesaid; and the Award of the Commissioners under their Common Seal, or Assistant Commissioner in Writing under his Hand and Seal, shall be binding on all Parties claiming such Estates, Rights, and Interests as aforesaid; and for the Purpose of ascertaining the Rights and Interests of such Parties as aforesaid it shall be lawful for the said Inclosure Commissioners or Assistant Commissioner to call such Meetings as they or he shall think fit of all Persons having or claiming any such Rights or Interests in the said Common and Commonable Lands as aforesaid, at such Time and Place as the said Commissioners or Assistant Commissioner shall think fit, so as the same shall be appointed by a public Notice thereof in Writing to be affixed at least Twelve Days before such Meeting on the principal outer Door of the Parish Church in which such Land or any Part is situate; and to be inserted in One of the public Newspapers published or generally circulated in the County in which such Land is situate; and at such Meeting the said Commissioners or Assistant Commissioner do and shall proceed to examine into and ascertain all and every the Claims which shall be made or put forward in respect of any such Rights or Interests as aforesaid, and the relative and proportionate Value of the Estates, Rights, and Interests of any Person or Persons claiming to be entitled thereto, and for that Purpose do and may employ any Valuer or Surveyor, and call for and receive such Records, Deeds, and Writings, and such other Proof or Evidence, as the said Commissioners or Assistant Commissioner may think fit; and they and he are and is hereby authorized and required to take the Testimony of any Witnesses upon Oath (which Oath they and he are and is respectively hereby empowered to administer), or to take the Affirmation of such Witnesses in Cases where Affirmation is allowed by Law instead of Oath.

As to the Payment of Costs of Inclosure Commissioners,

XVIII. All the Costs and Expenses of the said Inclosure Commissioners and Assistant Commissioner, and of any Valuer or Surveyor employed by them or him under the Provisions herein-before contained, shall, in the first place, be paid out of such Compensation Monies,

Monies, and the Residue of the said Monies shall be paid and divided between and amongst the said several Parties to be named in the said Award, and in the Shares and Proportions to be ascertained and set forth in such Award. and as to the Residue of Monies.

XIX. When it shall appear to the Commissioners or Assistant Commissioner that any of the Parties entitled to such Rights or Interests are only entitled thereto for a limited Interest, then it shall be lawful for them or him, by their or his Award, to direct that the Monies to be paid in respect of such Right or Interest, where the same shall exceed Twenty Pounds, shall be paid to the Trustees acting under the Will, Conveyance, or Settlement under which such Person having such limited Interest shall be interested in such Rights or Interests, and where there are no Trustees then into the Hands of Trustees to be appointed under the Hands and Seal of the Commissioners, to be held by them on Trusts similar to the Uses or Trusts to which such Rights or Interests had been immediately before the Payment of such Monies into the Bank subject to, or as near thereto as the said Commissioners or Assistant Commissioner can ascertain; and the Receipts of any Trustees to whom any such Monies shall be paid as aforesaid shall be good and sufficient Discharges for the same: Provided always, that the Payment of all such Sums shall from Time to Time be subject to such Rules and Regulations, for the Purpose of ensuring the Payment thereof to the Person or Persons duly entitled to receive the same, as the said Commissioners shall by any Order direct. Compensation for limited Interests to be paid to Trustees.

XX. In all Cases where the Sum payable by virtue of such Award, in respect of any Estate, Right, or Interest, shall not exceed Twenty Pounds, and the Person entitled to such Estate, Right, or Interest shall be under any Disability or Incapacity, such Sum shall and may be paid to the Guardian, Committee, or Husband of such Person; and where any such Person shall have a limited Interest only in such Estate, Right, or Interest, the whole of such Sum shall and may, nevertheless, be paid to the Person having such limited Interest, to his or her Guardian, Committee, or Husband, as the Case may be. As to Sums payable in respect of Lands not exceeding 20*l.*

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

CAP. XCVIII.

An Act to regulate the Salaries of the Parochial Schoolmasters of *Scotland*.

[10th *August* 1854.]

'WHEREAS an Act was passed in the Forty-third Year of the Reign of His Majesty King *George* the Third, intituled *An Act for making better Provision for the Parochial Schoolmasters, and for making further Regulations for the better Government of the Parish Schools in* Scotland, whereby Provision is made for ascertaining the Amount of the Schoolmasters Salaries according to the average Amount of the Fiars Prices of Oatmeal in the several Counties and Stewartries, and for re-ascertaining the Amount of such Salaries at the End of every Period of Twenty-five Years, according to the average Amount of the Fiars Prices to be ascertained as aforesaid: And whereas the average Price of a Chalder of Oatmeal, according to such Fiars Prices, was upon the Twenty-seventh Day of *November* One thousand eight hundred and twenty-eight struck by the Barons of Exchequer at Seventeen Pounds Two Shillings and Twopence and One Farthing, and such Average expired, according to the said recited Act, as at the Term of *Martinmas* One thousand eight hundred and fifty-three:' 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: 43 G. 3. c. 54.

I. The Salaries of the said Schoolmasters shall continue and be paid, according to the said average Amount of the Fiars Prices of Oatmeal so struck in the Year One thousand eight hundred and twenty-eight, from the Term of *Martinmas* One thousand eight hundred and fifty- Average struck in 1828 to endure till Martinmas 1855.