## OBSERVATION ON THE BILL FOR THE REGULATION AND IMPROVEMENT OF COMMONS, 1876

Published @ 2017 Trieste Publishing Pty Ltd

#### ISBN 9780649659937

Observation on the Bill for the Regulation and Improvement of Commons,  $1876\ \mathrm{by}\ \mathrm{Charles}$  Elton

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd. Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

## **CHARLES ELTON**

# OBSERVATION ON THE BILL FOR THE REGULATION AND IMPROVEMENT OF COMMONS, 1876



#### **OBSERVATIONS**

ON THE

# BILL FOR THE REGULATION AND IMPROVEMENT OF COMMONS,

1876.

### BY CHARLES ELTON,

OF LINCOLN'S INN, BARRISTER-AT-LAW,

Author of "The Tenures of Keni," "The Law of Commons and Waste Lands," and "The Law of Copyholds and Customary Tenures."

#### LONDON:

WILDY AND SONS, .
LINCOLN'S INN ARCHWAY, W.C.
MEREDITH, RAY, & LITTLER, MANCHESTER.

1876.

CHISWICK PRESS: -- TRINTED BY WHITTINGHAM AND WILKINS, TOOKS COURT, CHANCERY LANE.

#### CONTENTS.

#### CHAPTER I.

#### COMMONS AND WASTES.

Varieties of ancient tenure in Common Lands.

— Manorial Wastes.—What are Rights of Common.—Manors and their Origin.—Tenants' Rights on Wastes.—Different Kinds of Wastes.—Strips by Roads.—Sea-Shore.—Village Greens.—Their Nature and Origin.—Early Example of Rights of Recreation.—Public Recreation Grounds.—Legal Fictions.—Royal Forests.—Definition.—Commoners' Rights.—Survivals of old tenures in Forests.—Rights of Tinbounders.—Similar Customs

#### CHAPTER II.

#### COMMON FIELDS.

Nature of Common Fields.—Origin of Common-Field Husbandry.—Distribution by Lot.—Early Separation of Arable and Pasture.—Arable rarely Distributed by Lot.— Earliest Forms of Common Husbandry in England.— Evils of Common Husbandry.—Act of 1773.—Instances of Evils.—Opinions of Eminent Authorities.—Classification of Commonable Lands.—Shack Fields.—Intermixed Arable Fields.—Lammas Lands.—Stinted Pastures.—Commonable Woodlands.—Lot Meadows . Page 24

#### CHAPTER III.

#### INCLOSURES.

Disputes as to Commons and Wastes.—Approvement,
—Early Inclosures.—Statute of Merton.—Open Spaces
Committee. — Means of Securing Public Recreation
Ground.—Disputes as to Common Fields.—Changes in
System of Agriculture.—Effect of Inclosures and Changing Arable to Pasture,—Rebellions.—Local Inclosure
Acts.—Lord Worsley's Act.—Open Spaces round London.
—Early Complaints of Growth of London.—Decay of
Archery.—Riots.—Proclamations against Building.—The
Metropolitan Commons Acts.—Memorandum of Inclosure
Commissioners.

Page 42

#### CHAPTER IV.

#### PROVISIONS OF THE BILL

Objects of Bill,—Method of Procedure.—What Lands are Included.—Definitions.—Applications to Commissioners.—Who are Persons Interested.—Consents how to be given.—Compensation on Inclosure.—Saving of

Manorial Rights, whether required.—Customary Rights of Miners, whether to be Protected.—Regulation of Commons by General Inclosure Act.—New Provisions.—Improvement of Commons.—Old Powers of Improvement, whether to be Abolished.—Regulation of Commons which do not come under the Act.—Estates and Interests of Owners and Commoners.—Whether they can be acquired for the public benefit.—What Provisions would be necessary

Page 64

#### APPENDIX.

The Commons Bill, 1876

Page 93



\*

323



#### CHAPTER I.

#### COMMONS AND WASTES.

Scope of Bill.—Definition of Commons.—Varieties of ancient tenure in common lands. — Manorial wastes.— What are rights of common.—Manors and their origin.— Tenant's rights on wastes.—Different kinds of wastes.— Strips by roads.—Sea-shore.—Village greens.—Their nature and origin.—Early example of rights of recreation.—Public recreation grounds.—Legal fictions.—Royal forests.— Definition.—Commoner's rights.— Survivals of old tenures in forests.— Rights of tin-bounders.— Similar customs.

HE Bill for the Regulation and Inclosure of Commons is a measure of very simple form, but its subject is thrice-vexed and intricate in the highest degree. The word "common" does not only apply to places