The aggregate amount lent by the Board under this section shall not exceed fifty thousand pounds.

The Board in order to raise money for purposes of this section may from time to time create consolidated stock.

Money lent by the Board under this section shall, notwithstanding anything in any other Act, be repaid to them with interest within such time after the borrowing as the Board and the borrowers, with the approval of the Treasury, agree, not exceeding in case of a loan for purposes of improvements effected by the widening of streets or bridges, or for the purpose of purchase of land in fee simple, sixty years, and for any other purpose thirty years.

In case of a loan required to be for not exceeding thirty years, the Board shall from time to time carry to the Consolidated Loans Fund such sums as the Treasury approve as being in their opinion sufficient to redeem, within the period for which the loan is made, not exceeding thirty years from the date of the creation of stock for purposes of this section, an amount of consolidated stock equal to that so created.

Nothing in this section shall apply to the case of the managers of the Metropolitan Asylum District or of the School Board for London.

Extension of amount of loans by Board for Metropolitan Asylum District.

10. The Board may from time to time, up to the thirty-first day of December one thousand eight hundred and seventy-seven, lend to the managers of the Metropolitan Asylum District, in addition to the sum of five hundred thousand pounds authorised by section thirty-seven of the Metropolitan Board of Works (Loans) Act, 1869, and to the sum of one hundred thousand pounds authorised by section seventeen of the Metropolitan Board of Works (Loans) Act, 1871, and to the sum of one hundred thousand pounds authorised by section seven of the Act of 1875, such sums as the managers are from time to time authorised by the Local Government Board to borrow in pursuance of the Acts in the first-mentioned section referred to, not exceeding in the whole one hundred thousand pounds; and the first-mentioned section shall be construed as if eight hundred thousand pounds were therein substituted for five hundred thousand pounds.

Alteration of limitation of borrowing power.

11. The limitation on the borrowing power of the Board contained in section thirty-eight of the Metropolitan Board of Works (Loans) Act, 1869, shall not extend to money raised by the Board for purposes mentioned in this Act.

Repayments to go to Consolidated Loans Fund.

12. All sums received by the Board in respect of interest on or principal of any loan made by them under this Act shall be carried to the Consolidated Loans Fund.

CHAPTER 56.

An Act for facilitating the regulation and improvement of Commons, and for amending the Acts relating to the Inclosure of Commons.

[11th August 1876.]

WHEREAS by the Inclosure Acts, 1845 to 1868, upon the application and with the consent of such of the persons interested in any common as in the said Acts in that behalf specified, the Inclosure Commissioners are empowered by provisional order under their seal to authorise the inclosure of such common, provided such inclosure is made on such terms and conditions as may appear to the Commissioners to be proper for the protection of any public interests, and provided also that the Commissioners are of opinion that such inclosure would be expedient, having regard as well to the health, comfort, and convenience of the inhabitants of any cities, towns, villages, or populous places in or near any parish in which the land proposed to be inclosed, or any part thereof, may be situate (herein-after included under the expression the benefit of the neighbourhood), as to the advantage of the persons interested in the common to which such application relates (herein-after included under the expression private interests); but such provisional order is of no validity until and unless the Commissioners have in a report to be laid before

Parliament certified that in their opinion the inclosure of such common, if made on the terms and conditions in their provisional order expressed, would be expedient, having regard to the benefit of the neighbourhood as well as to such private interests as aforesaid, nor until and unless an Act of Parliament has been passed confirming such order and affirming such certificate as aforesaid, and directing that the proposed inclosure of the common should be proceeded with accordingly:

And whereas by the said Inclosure Acts, information is required to be supplied and inquiries to be made for the purpose of enabling the Inclosure Commissioners to judge of such expediency as aforesaid, but it is desirable to make further provisions for bringing under the notice of the said Commissioners, and of Parliament, any circumstances bearing on the expediency of allowing the inclosure of a common, and that inclosure in severalty as opposed to regulation of commons should not be herein-after made unless it can be proved to the satisfaction of the said Commissioners and of Parliament that such inclosure will be of benefit to the neighbourhood as well as to private interests, and to those who are legally interested in any such commons:

And whereas by the said Inclosure Acts the Commissioners are empowered in the case of a common being waste land of a manor to require, and in their provisional order to specify as one of the conditions of inclosure, the appropriation of an allotment for the purposes of exercise and recreation by the inhabitants of the neighbourhood, and also of an allotment for the labouring poor, and it is expedient to give further effect to the provisions relating to the said allotments (in this Act referred to as allotments for recreation grounds and field gardens):

And whereas it is expedient to give further facilities for enabling the Inclosure Commissioners to regulate, improve, stint, and otherwise deal with commons without wholly inclosing and allotting the same in severalty:

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:

Short title

1. This Act may be cited for all purposes as the Commons Act, 1876.

PART I.

LAW AS TO THE REGULATION AND INCLOSURE OF COMMONS.

Applications in relation to Commons.

Alternative provisional order for regulation or inclosure of commons.

2. The Inclosure Commissioners may entertain an application made in manner in this Act mentioned for a provisional order—

(1.) For the regulation of a common; or

(2.) For the inclosure of a common or parts of a common;

Further, an application may be made as respects the same common for the regulation of part of such common, specifying the part to be regulated, and for the inclosure of the residue, and in such case the application shall be dealt with as respects such parts as if they were separate commons, with this exception, that the boundaries as proposed in the application of the part to be regulated and the part to be inclosed may be modified by the provisional order.

The Commissioners shall not proceed to carry any application under this Act into effect until it is made to appear to them that the persons making the application represent at least one third in value of such interests in the common as are proposed to be affected by the provisional order.

"Regulation of common" includes adjustment of rights and improvement.

3. A provisional order for the regulation of a common may provide, generally or otherwise, for the adjustment of rights in respect of such common, and for the improvement of such common, or for either of such purposes, or for any of the things by this Act comprised under the expression "adjustment of rights" or "improvement of a common," or may state that all or any of such subjects are to be provided for in the proceedings subsequent to the confirmation of the provisional order by Parliament.

Explanation of adjustment of rights.

4. The adjustment of rights in respect of a common comprises for the purposes of this Act all or any of the following things:

(1.) As respects rights of common of pasture in a common, being waste land of a manor,—the determination of the persons by whom, the stock by which, and the times at which such common of pasture is to be exercised;

(2.) As respects rights of common of turbary, or taking of estovers, or taking gravel, stone, or otherwise interfering with the soil of the common, being waste land of a manor,—the determination of the persons by whom, and the mode and place or places in which, and the times at which such rights are to be exercised, also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may permanently injure the common;

(3.) As respects rights of common in land which is not waste land of a manor,—the stinting or other determination of such rights, and the persons by whom, and the mode in which, and the times at which such rights are to be exercised, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may be injurious to the general body of the commoners or to the proper cultivation of the land;

(4.) As respects any common whether it is or is not waste land of a manor,—the determination of the rights and obligations of the lord of the manor, severalty owners, or other person or persons entitled to the soil of such common, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights, and in particular in the case of severalty owners of all or any of such rights which may be injurious to the general body of the severalty owners or to the proper cultivation of the land; and

(5.) Generally as respects any common, whether it is or is not waste land of a manor,—the determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil, or otherwise, whether arising between the commoners themselves, or between the commoners in relation to the lords of the manors, severalty owners, or other person or persons entitled to the soil of the common, which settlement may be conducive to the interests of all or any class of persons interested in the common.

Explanation of improvement.

5. The improvement of a common comprises for the purposes of this Act all or any of the following things; that is to say,

(1.) The draining, manuring, or levelling the common; and

(2.) The planting trees on parts of such common, or in any other way improving or adding to the beauty of the common; and

(3.) The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the common; and

(4.) The general management of such common.

(5.) The appointment from time to time of conservators of the common for the purposes aforesaid.

Meaning of provisional order for inclosure of commons.

6. A provisional order for the inclosure of a common means a provisional order for inclosing the common as provided by the Inclosure Acts, 1845 to 1868, as amended by this Act.

Provisions for the benefit of a neighbourhood applicable alike to orders for regulation and orders for inclosure.

7. In any provisional order in relation to a common, the Inclosure Commissioners shall, in considering the expediency of the application, take into consideration the question whether such application will be for the benefit of the neighbourhood, and shall, with a view to such benefit, insert in any such order such of the following terms and conditions (in this Act referred to as statutory provisions for the benefit of the neighbourhood) as are applicable to the case; that is to say,

(1.) That free access is to be secured to any particular points of view; and

(2.) That particular trees or objects of historical interest are to be preserved; and

(3.) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times and in such manner and on such parts of the common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the common; and

(4.) That carriage roads, bridle paths, and footpaths over such common are to be set out in such directions as may appear most commodious; and

(5.) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.

Suburban Commons.

Sanitary authorities to be represented in the case of commons in the neighbourhood of towns.

8. Notice of any application under this Act in relation to a common which is situate either wholly or partly in any town or towns, or within six miles of any town or towns (which common so situate is in this Act referred to as a suburban common) shall be served as soon as may be on the urban sanitary authority or authorities having jurisdiction over such town or towns, and it shall be lawful for the urban sanitary authority of any such town to appear before the Assistant Commissioner on the occasion of his holding a local inquiry as in this Act mentioned, and also to appear before the Inclosure Commissioners, and to make to him or them, at any time during the proceedings in relation to obtaining a provisional order under this Act, such representations as they may think fit with respect to the expediency or inexpediency of such application, regard being had to the health, comfort, and convenience of the inhabitants of the town over which such authority has jurisdiction, and to propose to him or them such provisions as may appear to such urban sanitary authority to be proper, regard being had as aforesaid.

Any urban sanitary authority entitled to receive notice of an application in relation to a suburban common may, with the sanction of the Inclosure Commissioners, enter into an undertaking to contribute out of their funds for or towards the maintenance of recreation grounds, or of paths or roads, or the doing any other matter or thing for the benefit of their town in relation to the common to which such application relates.

They may also, in relation to any such common, and with such sanction as aforesaid, enter into an undertaking to pay compensation in respect to the rights of commoners, for the purpose of securing greater privileges for the benefit of their town.

An urban sanitary authority may acquire by gift and hold without license in mortmain on trust for the benefit of their town any suburban common in respect of which they would be entitled to receive notice of any application made to the Inclosure Commissioners in pursuance of this Act, and any rights in such a common.

They may also in the case of any such suburban common purchase and hold as aforesaid, with a view to prevent the extinction of the rights of common, any saleable rights in common or any tenement of a commoner having annexed thereto rights of common.

They may also, with the consent of persons representing at least one third in value of such interests in a suburban common as aforesaid as are proposed to be affected by the provisional order, make an application to the Inclosure Commissioners for the regulation of such common with a view to the benefit of their town and the improvement of such common.

Where an urban sanitary authority makes an application under this Act with such consent as aforesaid in respect of the regulation of a common, or undertakes to make any contribution or to pay any compensation or make any other payment out of its funds in respect of a common, such urban sanitary authority may, if the Inclosure Commissioners deem it advisable, having regard to the benefit of the neighbourhood as well as to private interests, be invested with such powers of management or other powers as may be expedient.

The expenses incurred by an urban sanitary authority in pursuance of this section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

A town for the purposes of this section means any municipal borough, or Improvement Act district, or Local Government district, having a population of not less than five thousand inhabitants.

The population of any town for the purposes of this Act shall be reckoned according to the last published census for the time being, and distances shall be measured in a direct line from the town hall, or if there shall be no town hall, then from the cathedral or church, if there shall be only one church, or if there be more churches than one, then from the principal market place of such town to the nearest point of the suburban common. When part only of a common is situate within the aforesaid distance from a town, such part shall be deemed for the purposes of this section to be a common separate and distinct from the part situated without and beyond such distance.

Procedure.

Issue of forms by Commissioners.

9. The Inclosure Commissioners shall from time to time, upon application made by the persons interested in any common, issue in such form as they may deem expedient information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, as amended by this Act are to be made to the Commissioners, with such explanations as they may think fit with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the Inclosure Commissioners.

Rules as to application to Commissioners.

10. The following rules shall be observed with respect to an application to the Inclosure Commissioners for a provisional order for the regulation or inclosure of a common; that is to say,

Publication of notices of application.

(1.) The applicants previously to making their application shall publish, in such manner as the Inclosure Commissioners may from time to time, by general or special order, direct, an advertisement giving notice of their intention to apply for such provisional order, and shall also serve a like notice on any urban sanitary authority entitled under this Act to receive such notice: Provided that such advertisement as aforesaid shall always be inserted in at least one paper circulating in the neighbourhood of the common to which the application relates:

Manner of application.

(2.) The application shall be in writing, accompanied with a map of the common, or part thereof, and, if for the regulation of a common, shall express whether the applicants propose that all or certain specified provisions only of this Act for the adjustment of rights or improvement of commons should be put in force in relation to such common, and whether to apply to the whole or part of such common, but, subject as aforesaid, an application for the regulation or inclosure of a common shall be in such form and be made in such manner as the Inclosure Commissioners may from time to time direct:

Evidence to be furnished in support of application.

(3.) On making their application in respect of any common, the applicants shall furnish the Inclosure Commissioners, in answer to questions previously submitted or otherwise in such manner as the said Commissioners may from time to time direct, with information bearing on the expediency of the application considered in relation to the benefit of the neighbourhood as well as to private interests':

Evidence in relation to benefit of neighbourhood.

(4.) The information to be furnished as bearing on the expediency of the application, considered in relation to the benefit of the neighbourhood, shall comprise statements as to the particulars following; that is to say, as to the number and occupation of the inhabitants of the parish or place in which the common is situate; as to the population of the neighbourhood, and the distance of the common from any neighbouring towns and villages; as to the intention of the applicants to propose the adoption of all or any of the statutory provisions as defined by this Act for the benefit of the neighbourhood; as to the circumstance of any ground other than the common to which the application relates being available for the recreation of the neighbourhood; and in the case of a common being waste land of a manor, as to the site, extent, and suitableness

of the allotments, if any, proposed to be made for recreation grounds and field gardens, or for either of such purposes; and as to any other matter which in the judgment of the Inclosure Commissioners may assist them in forming an opinion as to whether such application ought to be acceded to, having regard to the benefit of the neighbourhood, and if acceded to, as to what statutory provisions as defined by this Act ought to be inserted in the provisional order for the benefit of the neighbourhood:

The Inclosure Commissioners shall also require, in the case of an application for inclosure, special information as to the advantages the applicants anticipate to be derivable from the inclosure of a common as compared with the regulation of a common, also the reasons why an inclosure is expedient when viewed in relation to the benefit of the neighbourhood:

Evidence in relation to private interests.

(5.) The information to be furnished as bearing on the expediency of the application considered in relation to private interests shall comprise statements as to the several particulars following; that is to say, as to the extent and nature of the common to which the application relates; as to the mines, minerals, or valuable strata (if any) under the same; as to the questions of boundary (if any) concerning such common, or such mines, minerals, or strata; as to the parties interested in such common, and the numbers and proportion in value of interest who have consented to or dissented from the application; as to the nature of the rights requiring the intervention of the Inclosure Commissioners or the interference of Parliament; as to the supposed advantages of the application being acceded to; as to (in cases where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the provisional order applied for) the allotment (if any) or compensation agreed on or proposed to be made to such lord of the manor in respect of his interest so affected; and as to any other matter which in the judgment of the Inclosure Commissioners may assist them in forming an opinion as to whether such application ought to be acceded to, having regard to private interests, and if acceded to as to what provisions ought to be inserted in the provisional order for the protection of private interests:

Duty of Commissioners on application.

(6.) The Inclosure Commissioners shall take into consideration any application made to them as in this Act provided, and if satisfied by the information furnished to them as aforesaid, or by any further inquiries made by themselves or an Assistant Commissioner, that a primâ facie case has been made out, and that, regard being had to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, they shall order a local inquiry to be held by an Assistant Commissioner.

Rules as to local inquiry.

11. The following rules shall be observed with respect to a local inquiry held by order of the Inclosure Commissioners:

Inspection and public meeting.

(1.) The Assistant Commissioner appointed to hold such inquiry shall inspect the common to which the application relates, and shall convene one or more public meetings at a suitable time and place for securing the attendance of the neighbouring inhabitants, and of all persons claiming interest in the common: Provided always, that one at least of such public meetings shall be held in the evening between the hours of seven and ten of the clock.

Notice of meeting.

(2.) The Assistant Commissioner shall give not less than twenty-one days notice of his intention to hold the first of such meetings.

Contents of notice.

(3.) The notice shall, in such form as the Inclosure Commissioners from time to time direct, state the nature of the application made, the objects of the meeting, that the meeting is a public one and held for the purpose of enabling the Assistant Commissioner to hear all persons desirous of being heard on the subject matter of the application, whether considered in relation to the benefit of the neighbourhood or to private interests, and the desirability of the attendance of all persons interested in the subject matter of the inquiry.

(4.) The notice shall be given— Publication of notice.

(*a.*) By affixing a copy thereof on the principal door of the church of the parish in which the common to which the application relates, or the greater part thereof is situate; and

(*b.*) By posting copies of the same on or near the common to which it relates at the post office or post offices of the parish or district in which the common to which the application relates is situate, at any town hall, or vestry hall, or other building or room the expense of maintaining which is payable out of any local rate, situate in the parish or district, and at all places therein where notices are usually posted; and

(*c.*) By advertising in such manner as the Inclosure Commissioners may direct, or otherwise giving notice of the meetings in such manner as they think best calculated to ensure publicity in the locality.

(5.) The Assistant Commissioner shall preside and regulate the proceedings at such meetings, and shall hear all persons desirous of being heard in relation to the subject matter of the inquiry. He may adjourn any such meeting from time to time, or from place to place, on giving such notice of adjournment as he thinks best calculated to ensure publicity. Conduct of meeting.

(6.) The Assistant Commissioner shall also make any inquiries and do any other acts which he may be instructed by the Inclosure Commissioners or may think it advisable to do, for the purpose of enabling the Commissioners to judge as to the expediency of making the provisional order applied for, also as to the nature of the provisions to be inserted in any such provisional order if made. Personal inquiries by Assistant Commissioner.

(7.) The Assistant Commissioner shall report in writing to the Inclosure Commissioners the result of the local inquiry, and of the public meeting or meetings held by him (in such form and with such details as the Inclosure Commissioners may from time to time direct), and specially shall report to the Inclosure Commissioners the information obtained by him as to the several particulars in respect of which the applicants for a provisional order are by this Act required to furnish information to the Inclosure Commissioners. Report of Assistant Commissioner to Inclosure Commissioners.

He shall also report the number of persons who attended the meetings held by him, the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted in the provisional order for the benefit of the neighbourhood or for the protection of private interests, and any other circumstances which he may think expedient, with a view to enable the Inclosure Commissioners to judge of the expediency of making the provisional order, having regard as aforesaid, and also, if the order be made, of the provisions to be inserted therein.

(8.) The report shall be accompanied by an outline or other map on such scale and of such a description as may be directed by the Inclosure Commissioners, with a sketch in the case of an inclosure of a common being waste of land of a manor, of the allotments (if any) proposed to be made for recreation grounds and field gardens, or for either of such purposes. Map to accompany report.

12. The following rules shall be observed with respect to provisional orders to be made by the Inclosure Commissioners; that is to say, Rules as to provisional orders.

(1.) The Inclosure Commissioners, if satisfied by the report of the Assistant Commissioner or by further inquiries to be made by themselves or an Assistant Commissioner, that, having regard to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, shall frame, in such form and with such provisions as they, having regard as aforesaid, may think expedient, and as are consistent with law and the description of provisional order applied for, a draft provisional order for the consideration of the persons interested in the common, specifying, if such application is for the regulation of a common, whether all or any one or more of the provisions of this Act for the adjustment of rights and the improvement of a common are to be put in force: Draft provisional order to be framed.

Provisions for benefit of neighbourhood.

(2.) With respect to provisions for the benefit of the neighbourhood, there shall be inserted in such draft provisional order all such of the statutory provisions as defined by this Act for the benefit of the neighbourhood as are applicable to the case; also, if the order is an inclosure order in the case of a common being waste land of a manor, the quantity and situation of the allotments (if any) to be made for recreation grounds and field gardens:

Provisions for protection of private interests.

(3.) With respect to private interests, there shall be inserted in such draft provisional order, (1) where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the order, a statement of the allotment (if any) or other compensation to be allotted or made to the lord of such manor in respect of his interest so affected; and (2) where there is any mineral property or other rights in relation thereto belonging to persons other than the lord of the manor which may be affected by the order, such provisions and reservations as are required to be inserted by the Inclosure Acts, 1845 to 1868, or as may appear to the Inclosure Commissioners proper to be inserted; also, if there are any other rights which appear to the Commissioners proper to be specially provided for or to be excepted from the operation of the order, there shall be specified the provisions or exceptions to be made in that behalf:

Deposit of draft order for consideration of parties interested.

(4.) As soon as may be after making their draft provisional order, the Inclosure Commissioners shall cause a copy thereof to be deposited in the parish or parishes in which the common is situate to which such order relates, in order that the same may be considered by the parties interested therein, and they shall give notice, in such manner as they think best calculated to secure publicity, of such deposit having been made, and of their intention to certify the expediency of such order if the necessary consents are obtained thereto:

Consents before provisional order certified to be expedient.

(5.) The Inclosure Commissioners shall not certify the expediency of a draft provisional order unless they are satisfied that persons representing at least two thirds in value of such interests in the common as are affected by the order consent thereto; and when the common to which the order relates is the waste land of any manor, or land within any manor to the soil of which the lord of such manor is entitled in right of his manor, then, unless there is more than one person interested in such manor according to the definition of the Inclosure Act, 1845, the Commissioners shall not certify the expediency of the same, unless the person interested in the common in right of such manor, or his substitute under the said Inclosure Act, 1845, consent to such order; and where there is more than one person interested in such manor the Commissioners shall not certify the expediency of the order, in case such persons or the majority of such persons in respect of interest signify their dissent within a time to be limited by the Commissioners:

Reservation in favour of freemen interested in common.

(6.) Where the freemen, burgesses, or inhabitant householders of any city, borough, or town are entitled to rights of common or other interest in the common to which the draft provisional order relates, the Inclosure Commissioners shall not certify the expediency of such order unless it appears to the Commissioners that two thirds in number of such of the freemen and burgesses so entitled as may be resident in such city, borough, or town, or within seven miles thereof, or of such inhabitant householders, as the case may be, have consented to the order; and in case two thirds in number of such resident freemen and burgesses, or of such inhabitant householders, have so consented, such consent shall be deemed the consent of the class of freemen, burgesses, or inhabitant householders, as the case may be, so entitled:

Means of obtaining consents.

(7.) The Inclosure Commissioners may cause a meeting or meetings to be held by an Assistant Commissioner for the purpose of obtaining the necessary consents, or of ascertaining the interests of consenting or dissenting parties, or they may cause such consents or dissents to be ascertained in such other manner as they may think fit:

Power to modify provisional order

(8.) The Inclosure Commissioners may, at any time before certifying the expediency of a draft provisional order, modify the same of their own mere motion, or on

the suggestion of any parties interested, but such modifications shall not be of any validity unless they are consented to in the same manner as if they formed part of the draft provisional order originally deposited by the Commissioners: before expediency certified.

(9.) When the necessary consents have been obtained to any draft provisional order as originally deposited, or as modified in pursuance of this Act, such order shall be deemed to be final; and the Inclosure Commissioners shall in a report or reports to be made from time to time, as respects each provisional order which has become final as aforesaid, certify that it is expedient that such provisional order should be confirmed by Parliament, together with their reasons for certifying such expediency, and specially, as respects each provisional order, they shall, in such manner as they think best adapted to enable Parliament to judge of the expediency of such order, state the information furnished to them as to the several particulars in respect of which the applicants for a provisional order are by this Act required to furnish information to the Commissioners; also the result of the local inquiry, and of the number and description of the persons who attended the meetings held during such inquiry, and the nature of the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted for the benefit of the neighbourhood or for the protection of private interests by the persons so attending, and any other circumstances which the Commissioners may think it expedient to state for such purposes as aforesaid: Certificate of expediency of provisional order.

(10.) Every report made by the Inclosure Commissioners certifying the expediency of any provisional order under this Act shall be presented to Parliament, and if at any time thereafter it is enacted by Act of Parliament that any order for the regulation or inclosure of a common, the expediency of which has been so certified by the Commissioners, shall be confirmed, the regulation or inclosure of any common to which any such order relates shall be proceeded with and completed according to the terms of the provisional order relating to such common, and to the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, and any Act of Parliament containing such enactments as aforesaid shall be deemed to be a public general Act, but a provisional order, until such Act of Parliament as aforesaid has been passed in relation thereto, shall not be of any validity whatever: Confirmation of provisional order.

(11.) If, after the presentation to Parliament of a report made by the Inclosure Commissioners certifying the expediency of any provisional order for the regulation or inclosure of a common, and before a Bill has been brought in for the confirmation of such order, such report is referred to a committee of either House of Parliament for consideration, and such committee recommend that such provisional order should not be confirmed by Parliament except subject to certain modifications, the Inclosure Commissioners may modify the provisional order accordingly, but such modifications shall not be of any validity unless they are consented to in the same manner as if they had formed part of the draft provisional order originally deposited by the Commissioners: Supplemental power to modify provisional order after expediency certified.

And it shall be the duty of the Commissioners to take the necessary steps for ascertaining whether such consent as aforesaid can be obtained or not, and if such consent be obtained, the Commissioners shall make a special report to the effect that the order has been modified as aforesaid and such consent duly obtained, and such report shall be presented to Parliament; and thereupon the order so modified shall be deemed to be in the same position in all respects as if it were an order in respect of which a report had been made by the Commissioners certifying the expediency thereof, and such report had been presented to Parliament.

13. The Inclosure Commissioners may insert in any provisional order for the regulation of a common any provisions they may deem necessary for the purpose of carrying such order into effect; but, subject as aforesaid, when an Act of Parliament has been passed as aforesaid, enacting that the regulation of a common shall be proceeded with, the subsequent Partial application of procedure under Inclosure Acts.

proceedings for carrying into effect the regulation of such common shall be the same, so far as is practicable, as they would be in case such common were to be inclosed instead of being regulated, and the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, shall apply accordingly.

Power to raise money for improvement of common.

14. A provisional order for the regulation of a common may provide for the raising from time to time by such persons interested in the common, and for such amounts as the Commissioners think fit, of money to be applied towards the improvement or protection of such common, either by means of rates to be levied on the persons and in respect of the property who and which respectively will be benefited or principally benefited by such improvement or regulation, or by means of the sale of any outlying or other small portion not exceeding in the whole one fortieth part of the total area of such common.

Supplemental Provisions.

Owners may make byelaws.

15. The majority in value of the owners of skirts or rights of pasture in any regulated pasture created under the provisions of the General Inclosure Act, 1845, in addition to the powers they now possess are hereby authorised at any annual meeting for the election of field reeves to make byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the regulated pasture, and for general management, occupation, and enjoyment of the regulated pasture, provided the consent of the lord of the manor is given to such byelaws.

Provision as to byelaws.

16. Any byelaw made in pursuance of this Act, and any alteration made therein, and any revocation of a byelaw, shall not be of any validity until it has been confirmed by one of Her Majesty's Principal Secretaries of State.

Pecuniary penalties (to be recovered summarily before any two justices) may be imposed by any such byelaws on persons breaking the same, provided that no penalty exceeds for any one offence the sum of forty shillings.

Notice of application for confirmation of byelaws.

17. No such confirmation shall take place unless notice of the intention to apply therefor, stating the effect of this section, has been published by the conservators one month at least before the application.

During one month at least before the application a copy of every byelaw, the making, alteration, or revocation of which is submitted for confirmation, shall be kept at the office of the person or body of persons making, altering, or revoking such byelaw open for inspection by persons interested, and such person or body of persons shall furnish a printed copy thereof to every person applying for the same on payment of a sum not exceeding one shilling for each copy.

Provision as to certain expenses under order for regulation of a common.

18. Subject to the terms of the provisional order the amount of any compensation to be paid for any restriction, modification, or abolition of rights in pursuance of an order for the regulation of a common shall be deemed to be expenses of and incidental to the regulation of the common, and may be defrayed accordingly.

Definition of power of Charity Commissioners in certain cases.

19. Whereas by several awards made under the authority of Inclosure Acts prior to the year one thousand eight hundred and forty-five, fuel allotments for the poor have been set out and awarded, and vested in divers persons and bodies of persons as trustees of such allotments:

And whereas under the provisions of the Inclosure Acts, 1845 to 1868, and the several Acts of Parliament and awards made thereunder, allotments for recreation grounds and field gardens have been set out and awarded to the churchwardens and overseers of parishes and other persons:

And whereas power exists or is claimed under divers Acts of Parliament, to divert such allotments from the uses declared by Parliament respecting the same: Be it enacted, that after the passing of this Act, notwithstanding anything in any other Act contained, it shall not be lawful (save as herein-after mentioned) to authorise the use of or to use any such allotment, or any part thereof, for any other purpose than those declared concerning the same by the Act of Parliament and award, or either of them, under which the same has been set out: Provided, that it shall be lawful for the Charity Commissioners for England and Wales in the exercise of their ordinary jurisdiction under the Charitable

Trusts Acts, upon the application of the trustees of any fuel allotment, to authorise the use of such fuel allotment as a recreation ground and field gardens, or for either of those purposes, and to make an order under the provisions of "The Charitable Trusts Act, 1860," for the establishment of a scheme for the administration of such fuel allotment accordingly; and provided, that it shall be lawful for the said Charity Commissioners, on such application as aforesaid, to authorise the exchange of any fuel allotment, or any part thereof, for land of equal value situate within the parish or district for the benefit of the poor of which such allotment was set out, if the Commissioners are of opinion that by means of such exchange land better suited for the purpose for which such allotment was set out will be obtained.

Gravel digging.

20. After the passing of this Act, where any common is regulated pursuant to this Act by a provisional order of the Inclosure Commissioners confirmed by Parliament, or is the subject of a scheme confirmed by Parliament under the provisions of "The Metropolitan Commons Act, 1866," or "The Metropolitan Commons Amendment Act, 1869," or (being situate within the metropolitan police district) is the subject of any private or local Act of Parliament having for its object the preservation of such common as an open space, no surveyor of highways or highway board constituted in pursuance of the Highway Acts, or trustees of any turnpike road, shall search for, dig, get, or carry away gravel, sand, stone, or other materials in or from any part of such common which has not been set apart for that purpose with the sanction of Parliament, without the consent of the person or persons having the regulation or management of the same, or in default of such consent, without an order of two or more justices in petty sessions assembled, and acting in and for the petty sessional division in which such common is situate, who may in their order prescribe such conditions as to mode of working and restitution of the surface as to them shall seem expedient.

PART II.

AMENDMENT OF THE INCLOSURE ACTS.

Field Gardens and Recreation Grounds.

Expenses of clearing, draining, and fencing field gardens.

21. Whereas it is expedient that the expenses of clearing any allotments made for field gardens may be included in the expenses of an inclosure: Be it enacted, that the valuer shall, unless the Inclosure Commissioners otherwise direct, cause every allotment made for a field garden to be cleared, drained, fenced, levelled, and otherwise made fit for immediate use and occupation; and the expenses incurred by the valuer under this section shall be paid as part of the general expenses of the inclosure.

Substituted allotments for recreation grounds and field gardens.

22. The provisions of the Inclosure Acts, 1845 to 1868, which authorise the Inclosure Commissioners to allow an equal quantity of the land proposed to be inclosed to be allotted for the purpose of a recreation ground or field garden, or for any other public purpose, in lieu of that directed to be allotted by any provisional order, shall extend to authorise them to allow the allotment of land of equal value although it may not be of equal quantity.

Situation of allotments for recreation grounds and field gardens.

23. Every allotment made for the purpose of a recreation ground or field garden shall be in such part of the land proposed to be inclosed as is best suited for the purpose for which it is appropriated, and where any land proposed to be inclosed consists partly of common being waste land of a manor (in this section referred to as the first-mentioned land), and partly of common not being waste land of a manor (in this section referred to as the second-mentioned land), and the Commissioners are satisfied that it would be advantageous that the allotment for a recreation ground or a field garden, or any part thereof, should be made out of the second-mentioned land instead of out of the first-mentioned land, the Commissioners may, in the provisional order relating to such land, specify as one of the terms and conditions of the inclosure thereof that the said allotments or the said part thereof shall be made accordingly out of the second-mentioned land, and

shall out of the first-mentioned land allot land of equal value by way of exchange to the persons interested in the second-mentioned land.

Field gardens to be free of rentcharge.

24. There shall be repealed so much of the Inclosure Acts, 1845 to 1868, as relates to the charging of an allotment made for the purpose of a field garden with a rentcharge, and every such allotment made after the passing of this Act shall be made free of any such rentcharge.

Allotments for recreation grounds to be vested in churchwardens and overseers.

25. There shall be repealed so much of the Inclosure Acts, 1845 to 1868, as provides that an allotment made for the purpose of a recreation ground may be allotted to any person entitled to an allotment under the inclosure, and every such allotment made after the passing of this Act shall be vested in the churchwardens and overseers for the time being of the parish in which the same shall be situate, and shall be held by them as provided by the Inclosure Acts, 1845 to 1868.

Amendment of law as to letting field gardens.

26. Whereas by the Inclosure Act, 1845, allotment wardens are required to let the allotments under their management to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, and are further required to demand in respect of such letting, a rent not below the full yearly value of the land to be ascertained in manner in the said Act mentioned; and whereas it is expedient to amend the said provisions: Be it enacted that allotment wardens, if they are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, may let the same, or any unlet portion thereof, in gardens not exceeding an acre each to such inhabitants as aforesaid: Further, it shall be the duty of allotment wardens to offer the gardens under their management to the poor inhabitants of the parish at a fair agricultural rent, if from time to time sufficient to satisfy all rates, taxes, tithes, tithe rentcharge, and the rentcharge charged on the said allotments under the provisions of "The General Inclosure Act, 1845," but not otherwise, instead of at such rent as is required by the said Act. Moreover, if in any parish the allotment wardens are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in such quantities and at such rents as aforesaid, they may let the same, or such portion as may be unlet to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the allotment wardens to resume possession thereof within a period not exceeding twelve months, if it should at any time be required for such poor inhabitants as aforesaid.

This section shall apply to all land allotted to the poor for the purpose of cultivation under any Inclosure Act whatever, whether public or private, whether under the management of allotment wardens, feoffees, trustees, rector, or vicar and churchwardens, overseers, managers, or any other person or persons whatever, and whether at present cultivated or uncultivated, so that all such persons as aforesaid shall have like powers and duties as are herein-before given to and imposed upon allotment wardens.

Application of surplus rents of recreation grounds and field gardens.

27. Whereas by section seventy-three of the Inclosure Act, 1845, the surplus rents arising from recreation grounds are applicable in aid of the rates for the repair of the public highways in the parish or respective parishes in which the said grounds are situate, and by section one hundred and twelve of the same Act the surplus rents arising from field gardens are payable to the overseers of the poor in aid of the poor rates of the parish: And whereas it is expedient to amend the said provisions: Be it enacted, that the surplus rents arising from recreation grounds shall from and after the passing of this Act cease to be applied in manner provided by the said seventy-third section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the recreation grounds or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for recreation grounds in the same parish or neighbourhood; and the surplus rents arising from field gardens shall, from and after the passing of this Act, cease to be applied in manner provided by the said one hundred and twelfth section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the field gardens or any of them in the same parish or neighbourhood, or maintaining the

drainage and fencing thereof, or in hiring or purchasing additional land for field gardens in the same parish or neighbourhood.

The trustees of any recreation ground and the allotment wardens of any field gardens may, with the approval of the Inclosure Commissioners, sell all or any part of the allotment vested in them, and out of the proceeds of such sale purchase any fit and suitable land in the same parish or neighbourhood: Provided, that the land so purchased shall be held in trust for the purposes for which the allotment so sold as aforesaid was allotted, and for no others; and provided, that the Inclosure Commissioners shall not sanction any such sale as aforesaid unless and until it shall be proved to their satisfaction that land more suitable for the purposes for which the allotment proposed to be sold was allotted may and will be forthwith purchased; and the proceeds of any such sale shall be paid to the Inclosure Commissioners, and shall remain in their hands until such purchase of other land as aforesaid.

Reports to be made by managers of recreation grounds and field gardens.

28. The trustees of recreation grounds, where such trustees are the overseers or churchwardens of a parish, and the allotment wardens of field gardens shall, from time to time, and at such intervals of not less than three years nor more than five years, as the Inclosure Commissioners direct, make such reports to the said Commissioners in respect of the recreation grounds and field gardens under their management, with such particulars of the rents received by them, as the Commissioners may require.

Amendment of law as to town and village greens.

29. Whereas by the Inclosure Act, 1857, provision is made for the protection of town and village greens, and recreation grounds, and it is expedient to amend such provision: Be it enacted as follows, that is to say, an encroachment on or inclosure of a town or village green, also any erection thereon or disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance, and if any person does any act in respect of which he is liable to pay damages or a penalty under section twelve of the said Inclosure Act, 1857, he may be summarily convicted thereof upon the information of any inhabitant of the parish in which such town or village green or recreation ground is situate, as well as upon the information of such persons as in the said section mentioned.

This section shall apply only in cases where a town or village green or recreation ground has a known and defined boundary.

Jurisdiction of county court in respect of illegal inclosures.

30. A county court within whose jurisdiction any common or part of a common is situate shall have jurisdiction to hear any case relating to any illegal inclosure or encroachment of or upon such common or part of a common respectively made after the passing of this Act, or to any nuisance impeding the exercise of any right of common arising after the passing of this Act, and to grant an injunction against such inclosure, encroachment, or nuisance, or to make an order for the removal or abatement of such inclosure, encroachment, or nuisance.

Any person aggrieved by any injunction granted or order made or refusal to grant an injunction or make an order by a county court in pursuance of this section may, on giving security for costs to the satisfaction of the county court, appeal to the High Court of Justice in a summary manner, or by special case or otherwise, as may be prescribed by rules of court to be made by the Supreme Court of Judicature in manner provided by the seventeenth section of the Supreme Court of Judicature Act, 1875.

The appellate court may on hearing the appeal reverse, modify, or confirm the injunction or order complained of, or remit the case to the county court from which the appeal lay, with instructions to deal with the case according to the directions given by the appellate court.

Where an appeal is lodged against the order of a county court directing the removal or abatement of any inclosure, encroachment, or nuisance, such order shall be suspended during such time as such appeal is pending.

Nothing in this Act contained shall abridge or interfere with any existing right of abating or otherwise preventing any illegal inclosure of or encroachment on any common, or any nuisance interfering with any right of common.

Until rules of court are made for the purposes of this section, an appeal may be had from the decision of any county court under this section in the same manner in which an appeal from the decision of a county court may be had in a case within its ordinary jurisdiction.

Three months notice of claim to inclose to be given in the local papers.

31. Any person intending to inclose or approve a common or part of a common otherwise than under the provisions of this Act shall give notice to all persons claiming any legal right in such common or part of a common, by publishing, at least three months beforehand, a statement of his intention to make such inclosure, for three successive times, and in two or more of the principal local newspapers in the county, town, or district in which the common or part of a common proposed to be inclosed is situate; but the provisions of this section shall not apply to any commons or waste lands whereon the rights of common are vested solely in the lord of the manor.

A production of a newspaper containing such advertisement as aforesaid shall be evidence of the same having been issued, and the inclosure shall, until the contrary is proved, be deemed to have taken place at the time specified in such advertisement.

Appointment of valuer to be confirmed by Commissioners.

32. An appointment of a valuer after the passing of this Act shall not be valid until it has been confirmed by the Commissioners. The Commissioners may disapprove of a valuer on the ground of his incompetency, interest, want of impartiality, or any reasonable cause, and where they so disapprove of a valuer may call a meeting, and a meeting may be held to appoint, and another person appointed (subject to the approval of the Commissioners) to be valuer in like manner as if no previous meeting had been held and no valuer had been previously appointed, and so on until a valuer approved by the Commissioners is appointed.

General Amendment.

Extension of sec. 105 of the Inclosure Act, 1845, as to exchanges and partitions.

33. The provisions of section one hundred and five of the Inclosure Act, 1845, relating to the validity after confirmation of an award of inclosure of the exchanges, and partitions set forth in such award, shall apply to orders of exchange, partition, and division of intermixed lands carried into effect in pursuance of the Inclosure Acts, 1845 to 1868, by separate orders, and not included in an award of inclosure.

Part III.

Miscellaneous.

Repeal of certain parts of the Inclosure Act, 1845, and amendment of law as to reports.

34. There shall be repealed so much of section thirty of the Inclosure Act, 1845, as prescribes a limit to the quantity of land to be allotted to recreation grounds; also the twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh sections of the Inclosure Act, 1845, and the Inclosure Commissioners shall not be required to repeat, in their general annual report, any of the particulars in relation to the regulation or inclosure of commons which they may have stated in any other reports made by them in pursuance of this Act in relation to such commons, but they may refer to such other reports, or give a summary thereof, or otherwise deal with the same as may be thought expedient.

Act not apply to metropolitan commons.

35. This Act, save as herein expressly provided, shall not apply to any metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 and 1869.

A common regulated under Act not to be inclosed without sanction of Parliament.

36. Where an Act of Parliament has been passed confirming a provisional order under this Act for the regulation of a common, then, subject to and without prejudice to the provisions of that order, such common shall not, nor shall any part thereof, be inclosed without the sanction of Parliament subsequently obtained.

Definitions.

Definitions.

37. In this Act, unless the context otherwise requires,—

"A common" means any land subject to be inclosed under the Inclosure Acts, 1845 to 1868:

"Waste land of a manor" means and includes any land consisting of waste land of any manor on which the tenants of such manor have rights of common, or of any land subject to any rights of common which may be exercised at all times of the year for cattle levant and couchant, or to any rights of common which may be exercised at all times of the year, and are not limited by number or stints:

"Person" includes a body corporate:

"Inclosure Acts, 1845 to 1868," means the Acts mentioned in the schedule hereto, and each of the Acts mentioned in the said schedule may be cited by the short title in such schedule in that behalf mentioned; and the above-mentioned Acts together with this Act may be cited as "The Inclosure Acts, 1845 to 1876":

"Municipal borough" means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of "municipal "corporations in England and Wales," and the Acts amending the same:

"Improvement Act district" means any area subject to the jurisdiction of any commissioners, trustees, or other persons invested by any local Act of Parliament with powers of improving, cleansing, lighting, or paving any town:

"Local government district" has the same meaning as it has in the Public Health Act, 1875.

SCHEDULE.

Year and Chapter.	Title.	Short Title.
8 & 9 Vict. c. 118. -	An Act to facilitate the inclosure and improvement of commons and lands held in common, the exchange of lands, and the division of intermixed lands; to provide remedies for defective or incomplete executions, and for the non-execution of the powers of general and local Inclosure Acts, and to provide for the revival of such powers in certain cases.	The Inclosure Act, 1845.
9 & 10 Vict. c. 70. -	An Act to amend the Act to facilitate the inclosure and improvement of commons.	The Inclosure Act, 1846.
10 & 11 Vict. c. 111. -	An Act to extend the provisions of the Act for the inclosure and improvement of commons.	The Inclosure Act, 1847.
11 & 12 Vict. c. 99. -	An Act to further extend the provisions of the Act for the inclosure and improvement of commons.	The Inclosure Act, 1848.
12 & 13 Vict. c. 83. -	An Act further to facilitate the inclosure of commons and the improvement of commons and other lands.	The Inclosure Act, 1849.
14 & 15 Vict. c. 53. -	An Act to consolidate and continue the Copyhold and Inclosure Commissions, and to provide for the completion of proceedings under the Tithe Commutation Acts.	The Inclosure Commissioners Act, 1851.
15 & 16 Vict. c. 79. -	An Act to amend and further extend the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1852.
17 & 18 Vict. c. 97. -	An Act to amend and extend the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1854.
20 & 21 Vict. c. 31. -	An Act to explain and amend the Inclosure Acts.	The Inclosure Act, 1857.
22 & 23 Vict. c. 43. -	An Act to amend and extend the provisions of the Acts for the inclosure, exchange, and improvement of land.	The Inclosure Act, 1859.
31 & 32 Vict. c. 89. -	An Act to alter certain provisions in the Acts for the commutation of tithes, the Copyhold Acts, and the Acts for the inclosure, exchange, and improvement of land, and to make provision towards the expense of the Copyhold, Inclosure and Tithe Office.	The Inclosure, &c. Expenses Act, 1868.