CHAPTER clxxiv.

An Act to confirm a Provisional Order of the Board of Agriculture relating to the Regulation of Darwen Moor in the Borough of Darwen. [7th August 1896.]

A.D. 1896.

WHEREAS the Board of Agriculture did in pursuance of the Inclosure Acts 1845–1882 issue in the year one thousand eight hundred and ninety-six the Provisional Order of Regulation set forth in the schedule hereto and in a special report certified that it was expedient that the same should be confirmed by Parliament:

8 & 9 Vict. c. 118 &c.

And whereas a Committee of the House of Commons to which the same Provisional Order was referred recommended that the same ought to be confirmed by Parliament without modification:

And whereas the said Regulation cannot be proceeded with without the previous authority of Parliament:

Be it therefore 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:—

Order in schedule confirmed.

1. The Provisional Order of Regulation set forth in the schedule to this Act is hereby confirmed.

Short title.

2. This Act may be cited as the Commons Regulation (Darwen) Provisional Order Confirmation Act 1896.

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SCHEDULE.

PROVISIONAL ORDER FOR THE REGULATION OF DARWEN MOOR.

WHEREAS persons interested in certain lands called or known as Darwen Moor (hereinafter referred to as "the said Common") situate in the borough of Darwen in the county of Lancaster such lands being a common within the meaning of the Inclosure Acts 1845 to 1882 have made application to the Board of Agriculture to issue a Provisional Order for the regulation of the said Common and to certify that it is expedient that such Provisional Order should be confirmed by Parliament:

And whereas it has been made to appear to the said Board that the persons making the said application represent at least one-third in value of such interests in the said Common as are proposed to be affected by the Provisional Order:

And whereas the said Board having taken the said application into consideration were satisfied that a primâ facie case had been made out and that regard being had to the benefit of the neighbourhood as well as to private interests it was expedient to proceed further in the matter and accordingly ordered a local inquiry to be held by an officer of the Board:

And whereas the said officer having caused public notice to be given as required by the said Acts held pursuant to the said notice public meetings at the Co-operative Hall Darwen on the 16th day of August 1895 at ten o'clock in the morning and at the Technical School Darwen at seven o'clock in the evening of the same day to hear all persons desirous of being heard on the subject matter of the said application and any information or evidence which might be offered in relation thereto and inquired into the correctness of the statements in the said application and otherwise into the expediency of making the Provisional Order applied for and into the nature of the provisions to be inserted in such Provisional Order:

And whereas the said officer inspected the said Common as required by the said Acts:

And whereas the said officer duly reported in writing to the said Board the result of the local inquiry and of the public meetings held by him together with all the information and other matters required by the said Acts and annexed to his report a sketch-map of the said Common a copy of which map is deposited in the office of the said Board:

And whereas the said Common is waste land of the manor of Over Darwen of which manor the Reverend William Arthur Duckworth is the lord and as such lord he is entitled to the soil of the said Common and to the mines and minerals thereunder and under other lands adjoining or in the neighbourhood of the said Common and to divers mining rights in connection therewith and to all the game woodcocks snipes quails landrails wildfowl and rabbits thereon (all

of which are hereinafter referred to as "the game") and to exercise by himself or his tenants certain rights in the nature of common rights and divers other rights on or over the said Common including the exclusive right of preserving the game and of hunting shooting and coursing over the said Common subject to the provisions of the Indenture next hereinafter recited:

And whereas under or by virtue of a certain Indenture bearing date the 17th day of July 1877 and made between the said William Arthur Duckworth of the one part and Edmund Ashworth the younger therein described of the other part and hereinafter referred to as "the said lease" the said Edmund Ashworth is entitled to preserve and kill game and otherwise to sport over the said Common during the life of the said William Arthur Duckworth:

And whereas it is intended that subject as is hereinafter provided all rights of the said William Arthur Duckworth his heirs and assigns or other the lord or lords of the manor for the time being (all of whom are hereinafter for brevity collectively referred to as "the lord of the manor") to the soil and over the surface of the said Common and to or in connection with the mines and minerals thereunder or under lands adjoining thereto or in the neighbourhood thereof and to or in connection with the game thereon and all rights of the said Edmund Ashworth over the said Common under the said lease shall be reserved and protected as and in manner hereinafter appearing:

And whereas the provisions of the said Acts have been in all other respects complied with:

And whereas the said Common is with respect to the Borough of Darwen a suburban common within the meaning of the said Acts and the mayor aldermen and burgesses of the said borough (hereinafter called "the Corporation of Darwen") being the urban sanitary authority of the said borough have with the sanction of the said Board entered into an undertaking to contribute out of their funds for or towards the maintenance of paths upon and over the said Common and the improvement of the said Common and otherwise for the benefit of the said borough in relation to the said Common:

Now therefore the Board of Agriculture being satisfied that regard being had to the benefit of the neighbourhood as well as to private interests it is expedient provided the necessary consent or consents is or are given thereto to proceed further in the matter do by virtue of the powers in this behalf given to them by the said Acts and the Board of Agriculture Act 1889 make this their Provisional Order as follows (that is to say):—

Improvement.

PART I.—For the improvement of the said Common the following provisions shall be put in force:

Conservators.

The Corporation of Darwen shall be the Conservators of the said Common and as such Conservators shall have power to—

(*a*) drain manure and level the said Common; and

(*b*) plant trees on the said Common or in any other way improve or add to the beauty of the said Common; and

(*c*) make bye-laws and regulations for the prevention of or protection from nuisances or for keeping order on the said Common and for preventing malicious or wanton destruction of property therein or thereon including

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the regulation of the exercise of lawful rights of common subsisting thereon such bye-laws and regulations being subject to any such confirmation as is by law required; and

(*d*) generally manage the said Common.

Provisions for benefit of neighbourhood.

PART II.—For the benefit of the neighbourhood:

(*a.*) There shall be reserved subject as is hereinafter provided a right of free access to the said Common and a privilege of playing games and enjoying recreation thereon at such times and in such manner and on such parts of the said Common as may from time to time be prescribed by any bye-laws and regulations to be made by the Conservators and confirmed as by law required and the Conservators may cause any part for the time being prescribed as aforesaid to be temporarily inclosed with posts and chains or other open fences;

(*b.*) The Conservators shall have power to repair and maintain the existing bridle paths and footpaths and to set out make and maintain new carriage roads bridle paths and footpaths over the said Common:

Provided always that the powers of the Conservators to set out and make new carriage roads bridle paths and footpaths shall not during the period of seven years from the date of this Provisional Order if the said lease shall so long continue be exercised without the consent in writing of the lord of the manor first had and obtained except as regards the four proposed new footpaths marked in blue on the said map and numbered 1 to 4 thereon (which said four new footpaths and also any other new footpaths to be made during the continuance of the said lease are to be made in the months of January and February or June and July only and after giving to the lord of the manor one month's notice of intention to make the same) nor shall anything contained in this part (Part II.) of this Provisional Order or in any bye-law or regulation to be made thereunder be construed as giving to the Conservators or the inhabitants of Darwen or the general public any right during the continuance of the said lease to traverse any part of that portion of the said Common which lies to the south of the road (marked A B C on the said map) leading from Stepback to Coney past the Red Delph (which last-mentioned portion of the said Common is coloured light green on the said map and is hereinafter referred to as the "reserved area" the remaining portion of the said Common being coloured dark green) except by such acknowledged roads and footpaths as may for the time being be in existence to which they shall keep accordingly or to enjoy during the said lease the privilege of playing games or enjoying recreation on any part of the reserved area nor shall the Conservators during the same period inclose with posts and chains or other open fences as aforesaid any part of the reserved area.

Provisions for the protection of the lord of the manor and his lessees &c.

PART III.—For the preservation and protection of the rights of the lord of the manor and his lessees and tenants:

(*a.*) This Provisional Order is to be without prejudice to all rights of the lord of the manor and of all persons claiming under him which are lawfully exercisable by him them or any of them in over under or on the

soil or surface of the said Common whether in connection with the game or in connection with the mines minerals and other substrata under the said Common or under any lands adjoining thereto or in the neighbourhood thereof or otherwise and to his and their right of breaking and interfering with the surface of the said Common for the purpose of searching for winning working getting and carrying away the said mines minerals and other substrata which rights are accordingly reserved and confirmed by and to him and them and may be exercised in as full and ample a manner as if this Provisional Order had never been made;

(*b.*) Except as hereinbefore provided this Provisional Order is to be without prejudice also to the rights and powers of the said Edmund Ashworth his heirs executors administrators and assigns under or by virtue of the said lease and such rights and powers are reserved and confirmed by and to the said Edmund Ashworth accordingly;

(*c.*) The Conservators shall by their bye-laws provide that no public meeting or demonstration shall during the continuance of the said lease take place upon any part of the reserved area.

For the purpose of giving complete effect to this Provisional Order there shall be inserted in the award to be made in pursuance of the said Acts such provisions not inconsistent with such Acts and the reservations herein contained for the protection of the rights of the lord of the manor and his lessees and tenants as the Board of Agriculture shall think desirable and proper.

In witness whereof the Board of Agriculture have hereunto set their official seal this twenty-eighth day of May one thousand eight hundred and ninety-six.

(L.S.)

Richard Dawson
Authorised by the President.

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