CHAPTER clxi.

An Act to confirm the Provisional Order for the Regulation of certain lands known as Shenfield Common, situate in the parish of Shenfield, in the county of Essex, in pursuance of a Report of the Inclosure Commissioners for England and Wales. [11th August 1881.]

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WHEREAS the Inclosure Commissioners for England and Wales did, in pursuance of the Inclosure Acts, 1845 to 1878, issue in the year 1881 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, in accordance with a recommendation of a Committee of the House of Commons, to which the same Provisional Order was referred, the said Commissioners have modified the said Provisional Order by a subsequent Order relative to the same regulation and likewise set forth in the said Schedule:

And whereas the said Commissioners have by a special report relating to the said regulation reported that the said Provisional Order has been modified as aforesaid, and that the necessary consents to such modification have been duly obtained:

And whereas the said Provisional Order, so modified, has received the approval of the said Committee:

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

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Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Confirmation of Provisional Order.

1. The Provisional Order of Regulation set forth in the Schedule to this Act, as modified by the Order relating to the same regulation and set forth in the said Schedule, is hereby confirmed.

Short title.

2. This Act may be cited as the Commons Regulation (Shenfield) Provisional Order Confirmation Act, 1881.

SCHEDULE.

PROVISIONAL ORDER for the Regulation of a Common.

WHEREAS persons interested in certain lands called or known as Shenfield Common, situate in the parish of Shenfield, in the county of Essex, such lands being a Common within the meaning of the Inclosure Acts, 1845 to 1878, have made application to the Inclosure Commissioners for England and Wales to issue a Provisional Order for the Regulation of such 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 Commissioners 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 Commissioners, 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 Assistant Inclosure Commissioner:

And whereas the said Assistant Commissioner, having caused public notice to be given as required by the said Acts, held, pursuant to the said notice, public meetings at the Artichoke Inn, in the said parish, on the 14th day of June 1879, at the hour of one in the afternoon, and on the 17th day of the same month, at the hour of seven in the evening, 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 Assistant Commissioner inspected the said Common as required by the said Acts:

And whereas the said Assistant Commissioner duly reported in writing to the said Commissioners the result of the local inquiry and of the public meetings held by him, together with the information obtained by him as to the several particulars in the said application, and all other information required by the said Acts, and annexed to his Report a map of the said Common, a copy of which map is deposited in the office of the said Commissioners:

And whereas the Right Honourable Francis Thomas de Grey Earl Cowper Baron Lucas, K.G., is Lord of the Manor of Shenfield, and, as such, is entitled to the soil of the said Common:

Now, therefore, in pursuance of the powers given to us by the said Acts, we, the Inclosure Commissioners for England and Wales, being satisfied that, having regard to the benefit of the neighbourhood as well as to private interests, the

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regulation of the said Common is desirable, have framed for the consideration of the persons interested this our draft Provisional Order, specifying the provisions for the adjustment of rights and the improvement of the Common which are to be put in force, and the terms and conditions on which, provided the necessary consents are given thereto, we are prepared to certify that it is expedient the Provisional Order should be confirmed by Parliament; that is to say,—

That for the adjustment of rights the following provisions, or such of them as may be found applicable, be put in force, that is to say, provisions for:—

1. The determination of the persons by whom, the stock by which, and the times at which rights of common of pasture are to be exercised.
2. The determination of the persons by whom, and the mode and place or places in which, and the times at which, rights of common of turbary, or taking of estovers, or taking gravel, stone, or otherwise interfering with the soil of the Common, are to be respectively 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. The determination of the rights and obligations of the Lord of the Manor or other person or persons entitled to the soil of the said 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.
4. 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, should any such be found to exist.

That for the improvement of the Common the following provisions be put in force; that is to say, provisions for:—

1. The draining, manuring, and levelling of the said Common as may be found necessary.
2. The planting of trees on parts of the said Common, or in any other way improving or adding to the beauty of the same:
3. The making of byelaws and regulations for the prevention of, and protection from nuisances, and for keeping order on the said Common:
4. The general management of the said Common:
5. The appointment from time to time of Conservators of the said Common for the purposes aforesaid, one of such Conservators to be nominated by the Lord of the Manor for the time being, and six others to be chosen, in equal proportion, by the persons interested in the said Common, out of their own number, by the inhabitants of Brentwood in vestry assembled, and by the inhabitants of Shenfield in vestry assembled:

That the foregoing provisions for adjustment of rights and for improvement shall apply to the whole of the said Common, except such portions as shall be sold in pursuance of the provisions herein-after contained:

That, with a view to the benefit of the neighbourhood, the following provisions be made part of the terms and conditions of this Order; that is to say:—

1. That there be reserved to the inhabitants of Brentwood and Shenfield, and the neighbourhood, at all times a privilege of playing cricket and other games over that part of the said Common which lies to the north of the line B. C. on the said map, and of enjoying other species of recreation over the whole of the said Common, except such portions as shall be sold under the provisions herein-after contained:

2. That carriage-roads, bridle-roads, and footpaths be set out, to the satisfaction of the Inclosure Commissioners, as may be most convenient for public use:

3. That the said Common, except such portions as shall be sold as aforesaid, be drained and levelled by the valuer so far as is necessary to make it suitable for purposes of recreation, and that the cost thereof be paid as part of the expenses of and incidental to the regulation, and more particularly that two acres or such larger portion as may be deemed advisable at or near the spot marked A. on the said map be laid out as a place for playing games, and in particular as a place for setting the wickets for cricket, and may at the discretion of the Conservators be temporarily enclosed with post and chain or other open moveable fence so as to prevent cattle straying thereon at such times as would interfere with the playing of games or render the ground less fit for that purpose, and that the Conservators have power to make byelaws for and incidental to the regulation of the playing of games upon the part of the said Common over which the privilege aforesaid is to be reserved.

That there may be raised by such of the Conservators for the time being as are interested in the said Common such sums as the said Inclosure Commissioners shall think fit, and by order from time to time under their seal, at the request of such Conservators, direct, to be applied towards the improvement or protection of the said Common, by means of the sale of the piece or parcel coloured pink on the said map, containing 3 roods and 16 perches, the same not exceeding one fortieth part of the total area of such common: Provided that until such piece or parcel is sold it shall remain open and be used as part of the regulated Common, and may be drained and levelled accordingly.

That every sale in pursuance of the last preceding provision shall be made by and under the direction of the said Inclosure Commissioners, whose receipt shall be a sufficient discharge for the purchase-money, and who shall, upon payment of such purchase-money, convey the land sold, and the fee simple and inheritance thereof, in possession to the purchaser, or as such purchaser shall direct, in the manner provided by section 143 of the Inclosure Act, 1845; and every conveyance shall have such effect, and may be in such form, as nearly as circumstances will permit, as in such section is mentioned; and every sum to be paid to the said Inclosure Commissioners, on such sale as aforesaid, shall be by them handed over to such of the Conservators as are interested in the said Common, to be applied as aforesaid; but the said Inclosure Commissioners shall not be responsible for the proper application of the same.

That the expenses of and incidental to the regulation be raised by the sale of a portion of the said Common, not exceeding five acres in extent, to be taken

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from that which is coloured yellow on the said map: Provided that no more shall be sold than may be found necessary; but no purchaser shall be bound to ascertain that no more is sold than is necessary; and that if any part of the said five acres be not required for sale, such part not so required shall remain open and form part of the regulated Common, and may be drained and levelled accordingly.

That one sixteenth part in value of the rights of common of pasture over the said Common to be regulated be allotted under the provisions of the said Acts to the said Francis Thomas de Grey Earl Cowper Baron Lucas, as Lord of the said Manor, in lieu of and compensation for his right and interest in the sand, gravel, stone, loam, or clay upon or under the said Common, or other his right and interest in the soil of the said Common so far as the same is affected by this Order; but this Order shall not affect his right and interest in any mines, minerals, and substrata for which compensation is not herein expressly made, or his right of winning, working, getting, and carrying away the same mines, minerals, and substrata, but such rights may be exercised in the same manner and to the same extent (but not further or otherwise than) as if this Order had not been made, yet so that as to the said portions coloured pink and yellow on the said map the mines, minerals, and substrata thereunder be got by underground workings only, and not so as to prejudicially affect any building for the time being standing on such portions respectively, and the said allotment to be made as aforesaid shall be without prejudice to any right of pasture, or other right of common or interest in the nature of a right of common, which may have been usually enjoyed by such Lord or his tenants upon the said Common, which said right of pasturage or other right, if any, is to be compensated for and determined under the provisions herein-before referred to for the adjustment and determination of rights.

That for the purposes of giving complete effect to this Provisional Order, and to enable the Conservators to carry out their duties in the most efficient manner, there shall be inserted in the award to be made in pursuance of the said Acts such provisions for the appointment of Conservators, and filling up vacancies, and such other provisions not inconsistent with such Acts, as the said Inclosure Commissioners shall think desirable and proper.

In Witness whereof we have hereunto set our Official Seal this twentieth day of January one thousand eight hundred and eighty-one.

L.S.

WHEREAS, after the foregoing Provisional Order had become final, the Inclosure Commissioners for England and Wales did, in a Report, duly certify that it was expedient that such Provisional Order should be confirmed by Parliament:

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And whereas such Report, having been presented to Parliament, was referred to a Committee of the House of Commons for consideration, and such Committee recommended that the Provisional Order should not be confirmed by Parliament except subject to a certain modification:

Now therefore, in pursuance of the powers given to us by the Inclosure Acts 1845 to 1878, we, the Inclosure Commissioners for England and Wales, do hereby modify the said Provisional Order, in accordance with the recommendation of the said Committee, by declaring as follows; that is to say:—

1. That the power of sale contained in the last clause but two of the said Provisional Order shall not be one of the terms and conditions thereof; —and,
2. That the expenses of and incidental to the Regulation be raised and provided for otherwise than by the sale of a portion of the Common.

In witness whereof we have hereunto set our Official Seal this sixteenth day of March one thousand eight hundred and eighty-one.

L.S.

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