CHAPTER xxi.

An Act to confirm the Provisional Orders for the Inclosure of certain lands called or known as Scotton and Ferry Common, situate in the parish of Scotton, in the county of Lincoln, in pursuance of a report of the Inclosure Commissioners for England and Wales. [3rd June 1881.] A.D. 1881.

WHEREAS the Inclosure Commissioners for England and Wales did, in pursuance of the Inclosure Acts, 1845–1878, issue, in the year one thousand eight hundred and eighty, the Provisional Orders of Inclosure 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 Orders were referred, recommended that the same should be confirmed without modification:

And whereas the said inclosure 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:

Confirmation of Provisional Orders.

1. The Provisional Orders of Inclosure set forth in the Schedule to this Act are hereby confirmed.

Short title.

2. This Act may be cited as the Inclosure (Scotton and Ferry Common) Provisional Orders Confirmation Act, 1881.

A.D. 1881.

SCHEDULE.

PROVISIONAL ORDER for the Inclosure of a Common.

WHEREAS persons interested in certain lands called or known as Scotton and Ferry Common, situate in the parish of Scotton, in the county of Lincoln, 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 inclosure 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 inspected the said Common, and having caused public notice to be given as required by the said Acts, held, pursuant to the said notice, public meetings at the "Three Horse Shoes" Inn, Scotton, on the 15th and 16th days of December 1879, at the respective hours of half-past ten in the morning and 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 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 Inclosure Commissioners for England and Wales:

And whereas Thomas Harsley Carnochan, Esquire, as Lord of the Manor of Scotton, is entitled to the soil of the said Common:

And whereas those parts of the lands, the subject of this Order, which are numbered 25, 26, 27, 28, 29, 30, 31, 32, 40, and 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, and 54, on the said map are claimed as freehold, and private

property not subject to rights of common, by the said Thomas Harsley Carnochan; and the said Thomas Harsley Carnochan has consented that the said lands shall be included in this Order, subject and without prejudice to any claim which he may make and substantiate either in the subsequent proceedings under this Order or otherwise, as he may think proper, as to the said lands being his absolute freehold and not part of the land subject to be inclosed under this Order:

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 inclosure of the said Common is desirable, have framed for the consideration of the persons interested this our draft Provisional Order, specifying 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 six acres on "Coney Garth Hill," at or near the spot marked A on the said map, and four acres at or near the spot marked D, be allotted for recreation ground.

That the pieces of land numbered 25, 26, 27, 28, 29, 30, 31, 32, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, and 54 on the said map, and also so much land on the Common at or near the spot marked B as with those pieces will make up 39 acres, and also nine acres at or near the spot marked E, be allotted for field gardens.

That carriage roads, bridle roads, and footpaths be set out to the satisfaction of the Inclosure Commissioners as may be found necessary and convenient.

That one-sixteenth part in value of the residue of the land, the subject of this Order, or of so much thereof as shall not be proved to be private property not subject to rights of common, be allotted, under the provisions of the said Acts, to the said Thomas Harsley Carnochan, as lord of the said manor, in lieu of his right and interest in the soil thereof, exclusively of his right and interest in all mines, minerals, stone, and other substrata under the same; and also exclusively of any right of pasturage 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 land to be inclosed, which said right of pasturage or other right, if any, is to be compensated by allotments or otherwise, independently of the allotment hereby stipulated in respect of his right and interest in the soil.

And in respect of the mines, minerals, stone, and other substrata under the land to be inclosed, which are hereby excepted from the inclosure, and reserved to the lord of the manor, it is hereby specified as follows; that is to say,

That a right to enter the said land when inclosed, for the purpose of opening, working, or winning such mines, minerals, stone, and other substrata, be reserved to such lord of the manor, compensation to be made by the persons exercising such right for any damage to the surface which may thereby be done.

Provided always, that as regards the said pieces of land numbered as aforesaid on the said map, this Order is made subject and without prejudice to any claim which the said Thomas Harsley Carnochan may make and substantiate,

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either in the subsequent proceedings under this Order or otherwise, as he may think proper, as to the said lands being his absolute freehold and not part of the land subject to be inclosed under this Order, but the said Thomas Harsley Carnochan hereby agrees, as testified by his consent to this Order, in case such a claim be made and substantiated, that he will declare the said pieces of land allottable under the provisions of Section 86 of the Act 8 & 9 Vict. c. 118, so that they shall in any event be allotted for field gardens.

In witness whereof we have hereunto set our official seal this fifteenth day of January one thousand eight hundred and eighty.

L.S.

Order modifying the foregoing Provisional Order.

Whereas Her Majesty the Queen in right of Her Duchy of Lancaster, as Lady of the Honour of Bolingbroke, has claimed to be entitled to an allotment of one sixtieth part of the said Common; and whereas the Manor of Scotton, of which the said Thomas Harsley Carnochan is lord, is known as Bussy's Manor of Scotton, formerly held under the Abbot of Peterborough; and whereas the Honourable Emily Charlotte Meynell Ingram has disputed the claim of the said Thomas Harsley Carnochan to the ownership of the soil of the said Common, and has claimed to be entitled thereto as the superior lord of the said manor by purchase from Gravenor Roadley, Lord of the Manor of Scotter, in the said county, and as Lady of the Manor of Scotton, known as Dallison's Manor of Scotton, and the said Emily Charlotte Meynell Ingram and the said Thomas Harsley Carnochan have respectively agreed (subject to the aforesaid claim of Her Majesty) that the soil of the said Common shall be deemed to belong to them in the proportions herein-after named, and that their respective interests in the soil of the said Common will be adequately represented by the respective allotments herein-after made to them respectively, and also that the mines, minerals, stone, and other substrata in and under the said Common shall be deemed to belong to them in the like proportions.

Now, therefore, we, the Inclosure Commissioners for England and Wales, by virtue of the power given to us by the Inclosure Acts, 1845 to 1878, do hereby modify the foregoing Provisional Order as follows; that is to say,

The allotment in lieu of the right and interest of the lord of the manor or manors within which Scotton Common aforesaid is situated of and in the soil of Scotton Common, namely, one sixteenth part in value of the residue of the said Common, after providing for the public purposes specified, shall be set out in the following manner; that is to say,

Twelve forty-fifth parts in value of such allotment, including the mines, minerals, stone, and other substrata thereunder, being equal to one-sixtieth part of the residue of the said Common as aforesaid, to Her Majesty the

Queen in right of Her Duchy of Lancaster, in lieu of Her Majesty's rights and interests in the said Common as lying within the Honour of Bolingbroke;

Twenty-two forty-fifth parts in value (being equal to two thirds of the residue of such allotment) to the Honourable Emily Charlotte Meynell Ingram as Lady of the Manor of Scotton known as Dallison's Manor;

And eleven forty-fifth parts in value (being the remaining one third of the said residue) to Thomas Harsley Carnochan, Esquire, as Lord of the Manor of Scotton, known as Bussy's Manor.

The said allotments to the said Emily Charlotte Meynell Ingram and Thomas Harsley Carnochan shall be set out, so far as practicable, so as to be contiguous to their respective freehold lands adjoining the said Common.

The mines, minerals, stone, and other substrata under the land so to be set out to Her Majesty, shall be set out to Her Majesty therewith, and the mines, minerals, stone, and other substrata under all other parts of the said Common shall be reserved to the said Emily Charlotte Meynell Ingram and Thomas Harsley Carnochan as tenants in common, in the proportion of two thirds in value to the former and one third to the latter, and a right shall be reserved to the said Thomas Harsley Carnochan and Emily Charlotte Meynell Ingram respectively, their respective heirs and assigns, to win, work, get, and carry away their respective mines, minerals, stone, and substrata, with a right for those purposes, or any of them, of entering upon the surface of the land to be inclosed, compensation being paid by the person or persons exercising such rights for any damage to the surface, or to any buildings which may have been erected thereon, which may thereby be done.

In witness whereof we have hereunto set our official seal this twenty-third day of December one thousand eight hundred and eighty.

L.S.

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