CHAPTER c.

An Act to confirm the Provisional Order for the inclosure of certain lands called or known as Thurstaston Common, situate in the parish of Thurstaston, in the county of Chester, in pursuance of a report of the Inclosure Commissioners for England and Wales. [18th July 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-one, the Provisional Order 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 Order was referred, recommended that the same should be confirmed without modification:

And whereas Birkenhead Glegg, Esquire, lord of the manor of Thurstaston, is willing to waive the right which by the said Provisional Order is reserved to the lord of the manor of taking and working the stone under a portion of the allotment made by the said Order for the purposes of exercise and recreation.

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:

1. The Provisional Order of Inclosure set forth in the Schedule to this Act is hereby confirmed subject to this qualification, that all words in the said Order reserving to the lord of the manor of Thurstaston any right to take or work stone under the recreation allotment, or referring to any such reservation, shall be deemed The Order in Schedule confirmed subject to qualification.

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to be struck out, and that no stone under any part of the said recreation allotment shall be hereafter taken or worked by any person.

Short title.

2. This Act may be cited as the Inclosure (Thurstaston Common) Provisional Order Confirmation Act, 1881.

SCHEDULE.

PROVISIONAL ORDER for the Inclosure of a Common.

WHEREAS persons interested in certain lands called or known as Thurstaston Common, situate in the parish of Thurstaston, in the county of Chester, 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 caused public notice to be given as required by the said Acts, held, pursuant to the said notice, public meetings at the schoolroom in the said parish, on the 1st and 2nd days of January 1880, at the respective hours of eleven 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 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 Inclosure Commissioners for England and Wales:

And whereas Birkenhead Glegg, Esq., as Lord of the Manor of Thurstaston, is entitled to the soil of the said Common:

And whereas the Corporation of the town of Birkenhead as the urban sanitary authority of the said town, to which the said Common is suburban within the meaning of the said Acts, have, with the sanction of the Inclosure Commissioners for England and Wales, undertaken, jointly with the churchwardens and overseers of the parish of Thurstaston, to contribute out of their funds such sums as may from time to time be necessary for the maintenance of the allotment to be set out for the purposes of exercise and recreation as hereinafter provided:

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 the portion of the said Common coloured green on the said map, containing 45 acres, be allotted for the purposes of exercise and recreation for the benefit of the inhabitants of Thurstaston, Birkenhead, and the neighbourhood, subject to the right of the Lord of the Manor to the stone (except "Thor's Stone") in and under the same.

That five acres in such situation as the valuer, with the sanction of the Inclosure Commissioners, shall determine to be most suitable for the purpose be allotted for field gardens.

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 the mass of stone at the spot marked C. on the said map, within the limits of the recreation allotment to be set out as aforesaid, and known as "Thor's Stone," be preserved in its present state.
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, and in particular so as to provide proper means of approach to the recreation allotment to be set out as aforesaid.

That in consideration of the Corporation of Birkenhead, as such urban sanitary authority as aforesaid, having undertaken to contribute such sums as aforesaid, the management and control of the recreation allotment to be set out as aforesaid shall be vested in the said corporation jointly and equally with the churchwardens and overseers of the parish of Thurstaston, subject to such provisions

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for the due exercise of such management and control as the valuer, with the sanction of the Inclosure Commissioners, may by his award provide; and that the said corporation and the said churchwardens and overseers as such managing body shall have power to make byelaws and regulations for the prevention of or protection from nuisances, and for keeping order on such recreation allotment.

That one-fourteenth part in value of the residue of the said Common be allotted, under the provisions of the said Acts, to the said Birkenhead Glegg, as Lord of the said Manor, in lieu of his right and interest in the soil of the said Common, inclusively of his right and interest in all mines, minerals, stone, and other substrata (except as aforesaid) under the same, but 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 said Common, 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.

That the stone (except "Thor's Stone") in and under the aforesaid recreation allotment be reserved to the Lord of the Manor, together with a right to enter the said allotment for the purpose of working the same: Provided always, that the right hereby reserved, and the powers of management hereinbefore conferred on the said corporation and the said churchwardens and overseers, shall be so exercised as to leave the surface of the allotment in such form as that the natural features of the land may be preserved.

That 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 as the said Inclosure Commissioners shall think desirable and proper.

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

L.S.

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