CHAPTER xxii.

An Act to confirm the Provisional Order for the Inclosure of certain lands called or known as Wibsey Slack and Low Moor Commons, situate in the township of North Bierley, in the parish of Bradford, in the county of York, 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-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 the said Inclosure cannot be proceeded with without the previous authority of Parliament, and it is expedient that the said Provisional Order be confirmed, subject to the modification herein-after appearing:

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 Order.

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

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Recreation grounds to be vested in the North Bierley local board.

2. Notwithstanding anything in the Inclosure Acts, 1845–1878, to the contrary, the legal estate in the allotments made by the said Order for recreation grounds shall be vested in the North Bierley local board.

Short title.

3. This Act may be cited as the Inclosure (Wibsey Slack and Low Moor Commons) Provisional Order Confirmation Act, 1881.

SCHEDULE.

PROVISIONAL ORDER for the Inclosure of a Common.

WHEREAS persons interested in certain lands called or known as Wibsey Slack and Low Moor Commons, situate in the township of North Bierley, in the parish of Bradford, in the county of York, such lands being Commons 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 Commons, 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 Commons 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 King's Head Inn, Buttershaw, in the said township, on the 1st Day of December 1880, at the hour of half-past 10 in the forenoon, and at the National Schools, Hilltop, in the said township on the same day 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 Commons, 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 Commons, a copy of which map is deposited in the Office of the Inclosure Commissioners for England and Wales:

And whereas the Low Moor Company, as Lords of the Manor of Royds Hall, are entitled to the soil of the said Commons:

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And whereas it is expedient that part of the said Commons should be allotted for the purposes of a recreation ground with a view to an exchange for a certain piece of old inclosed land, containing 1a. 2r. 9p., or thereabouts, situate near the reservoir on Low Moor Common and coloured green on the said map, which Adam Hall Hardy, of Wibsey, in the said county of York, the owner thereof, has expressed his willingness to give in exchange:

And whereas it is expedient that part of the said Commons should be allotted for the purposes of a cemetery, with a view to an exchange for a piece of old inclosed land, containing 15 acres, or thereabouts, being portion of certain fields known as Little Field and Nether Field, the property of the Low Moor Company, and Adam Hall Hardy, respectively, or of a field near Buttershaw House, the property of the Low Moor Company, or of some other suitable site for a cemetery to be selected and agreed upon by the North Bierley Local Board, and the said Low Moor Company or some other owner of land in the said township suitable for a cemetery who is willing to exchange such land for the said allotment:

And whereas the North Bierley Local Board, as the urban sanitary authority of a town to which the said Commons are suburban within the meaning of the said Acts, have, with the sanction of the Inclosure Commissioners for England and Wales, undertaken to contribute out of their funds such sums as may from time to time be necessary for the maintenance of the several recreation grounds herein-after mentioned:

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 Commons 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 following allotments be made for recreation grounds, viz.:—

Nine acres on Low Moor Common, as marked A. on the said map.

Seven acres, or thereabouts, on Odsall Moor, being part of Low Moor Common, as marked B. on the said map.

Twenty acres one rood thirty-one perches on Low Moor Common, in the neighbourhood of the point C. on the said map, including the reservoir, six acres in extent, subject to the provisions herein-after contained.

Thirty acres on Wibsey Slack, in the neighbourhood of the point D. on the said map.

And so much of the said Commons as shall be equal in value to the piece of old inclosed land, containing 1a. 2r. 9p., or thereabouts, the property of Adam Hall Hardy, near the aforesaid reservoir, and coloured green on the said map.

That in consideration of the North Bierley Local Board, as such urban sanitary authority as aforesaid, having undertaken to contribute such sums as aforesaid, the said board shall be invested with the general management and control of

the several recreation grounds aforesaid, and shall have power to make byelaws and regulations for the prevention of or protection from nuisances, and for keeping order on such recreation grounds.

That so much of the said Commons as shall be equal in value to the piece of old inclosed land to be selected and agreed upon as above mentioned, as suitable for a cemetery, be allotted for the purposes of a cemetery.

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.

That the allotment to the said Low Moor Company as Lords of the Manor, and for their rights in respect of their freehold lands within the township, shall be in accordance with the terms of a special agreement made between the said lords and the commoners, and the allotments to the commoners shall be subject to the terms, reservations, and provisions of the said agreement which are next herein-after set forth and are incorporated in this Provisional Order.

The terms of the said agreement are as follow :—

1. There shall be reserved to the said Company and to any person or persons to whom they may convey the same, and for any estate, and whether as trustee or trustees for the Company or otherwise, the mines, beds, and strata of coal, ironstone, and intermixed minerals known as the Low Moor Beds, comprising the Black Bed and Better Bed coal, the Black Bed ironstone, and the fireclay in or under that part of the said Commons, containing about 56 acres, which lies on the south-east side of the Lancashire and Yorkshire Railway, and is delineated in the said map, and is therein coloured brown (and is herein-after called the Low Moor mineral portion), together with all such rights, powers, easements, and privileges in respect to the said minerals as are mentioned, reserved, and contained in the printed agreements for sale of Sir Mathew Wilson's land at Bierley, a copy of which, marked "A.," is hereunto annexed (except that no compensation or damage shall be paid in respect of pithills now existing on the said portion, nor shall there be any obligation to remove, level, or trench the same when done with), in the same way as if the said reservations were here repeated, the name, the Low Moor Company, or their assigns as aforesaid, being substituted for that of Sir Mathew Wilson, and the rent payable in respect of the portions of surface used under the said powers being 4*l.* per acre instead of 6*l.*, as in the said agreement mentioned.
2. The Company, or their assigns as aforesaid, shall not pay or make any compensation for any damage done to the surface or to buildings hereafter to be built upon the surface of the said Low Moor mineral portion by reason of subsidence or disturbance of the surface, owing to the working of the said minerals or the exercise of the said liberties, it being intended that the right of support to the surface and buildings thereon shall be completely severed from the ownership of such surface and buildings respectively and waived as if it had never existed or were not an usual incident of property in land.
3. There shall be reserved to the said Company or such assigns as aforesaid, besides the aforesaid Low Moor beds, all the beds or strata of coal

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and ironstone, and all such stone as can be worked by quarrying or mining, and all fireclay and all other minerals in and under the said Commons (except surface clay in and under all parts of the said Commons, including the Low Moor mineral portion), with the same powers in respect thereto as those herein-before referred to with respect to the Low Moor beds, except that compensation shall be made for any injury caused to buildings hereafter erected on the said Commons by reason of working the said minerals.

4. All dams, reservoirs, watercourses, drains, pipes, buildings, and conduits, tram-roads, waggon-roads, dross-hills, cinder-hills, dross-heaps, cinder-heaps and tipping places and buildings, lands occupied for deposit and storage of ironstone castings or other property of the Company made or used by the Company, in, upon, or under any part of the said Commons, or made or used by other persons, and in respect of which rent or acknowledgments have been paid to the said Company, and which have existed upon any part of the said Commons for twelve years and upwards, and the land covered thereby shall be allotted to and become the absolute property of the Company, and all similar buildings, works, and encroachments which have not existed for 12 years shall form part or parts of the Company's allotment or allotments, or be otherwise secured in full ownership to the Company, their successors and assigns.

5. In consideration of the allotment provided by the last clause, and upon condition that the same is carried into effect, the Company will relinquish their right to surface clay in the said Commons.

6. The allotment to the Company for their rights in the soil of the said Commons, apart from the said reserved minerals, shall consist of that portion of the said Commons which is bounded by the road to new works on the west, by the Lancashire and Yorkshire Railway to Halifax on the south, by the Cleckheaton Road on the east, and by the Company's ironworks on the north, which said parcel of land is delineated in the said map, and is therein coloured pink.

7. The allotment to be made to the Company in respect of their freehold lands other than the said Commons and in respect of any rights belonging to such freehold lands or exercised in respect thereof, shall, as part thereof, include all such parts of the Commons in the vicinity of the Company's works as are situate within a line drawn along the road leading from the reservoirs to Hill Top School, through Hill Top by Low Moor House to Scott's School, from Scott's School down the middle of the Cleckheaton Road to Wesley Place, from the Wesleyan Burial Ground along the boundary of the Company's freehold ground, not included in the said Commons, to the Lancashire and Yorkshire Railway, the course of which said line or boundary is delineated in the said map, and is therein marked by a broad line coloured blue.

8. The allotments to the parties interested, other than the said Company, shall, so far as possible, be set out on the Wibsey Slack parcel of the said Commons

9. If any portions of the said Commons containing or surrounding or abutting on any reservoirs, drains, pipes, or culverts in connection with the said Company's water supply, or any waggon-road, tramway, or other works of the Company, shall be allotted for a recreation ground or for any other public purpose, full and ample rights of water, waterway, water-course-way, and other subsidiary easements, with all proper powers, liberties, rights of entry, repair and maintenance, making good all damage to the surface and renewal or removal of such reservoirs, drains, pipes, culverts, waggon-roads, tramways, and works respectively, shall be reserved and secured to the Company.

10. So far as is practicable in any drainage on Wibsey Slack or on any other part of the said Commons which may be made, either for public purposes or private improvement, the water shall not be diverted from the present lines of watershed and watercourse.

11. The allottees, other than the said Company, shall give up to the said Company, their successors and assigns, all the rights of support which would otherwise belong to any allotment which may be made of the said Low Moor mineral portion or any part thereof, to the intent that in this respect the ordinary rights of an allottee thereof to damage for subsidence and disturbance of the surface by underground workings of the said mines and minerals may be waived and renounced, and to the intent that the allottees, their heirs, executors, administrators, and assigns, respectively, shall not make any claims to damages or compensation in respect of any such subsidence or disturbance of the surface of the said Low Moor mineral portion, or any part thereof, by reason of such underground working as aforesaid.

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 eleventh day of January one thousand eight hundred and eighty-one.

L.S.

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