



Coity Wallia Commons Act 1976

CHAPTER xxix

ARRANGEMENT OF SECTIONS

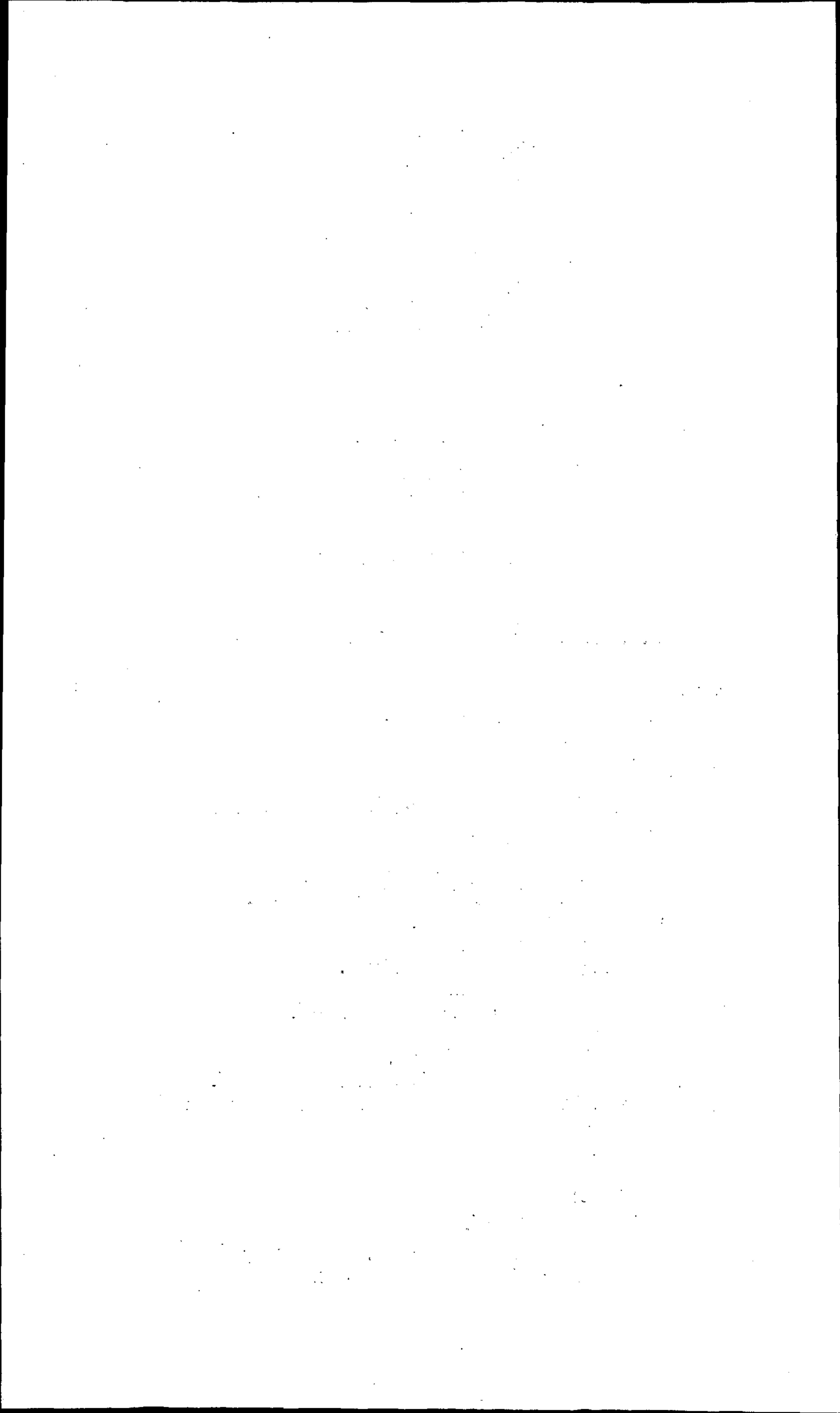
Section

1. Short title and commencement.
2. Interpretation.
3. Repeals, etc.
4. Altered constitution.
5. Appointment of six Conservators by commoners.
6. Power to let certain lands.
7. Car parks.
8. Access roads, garages, etc., to premises.
9. Area of land to be used for sections 7 and 8.
10. Exchange of common lands.
11. Fencing, cattle grids, etc.
12. Improving turf and protecting trees.
13. Protection of the commons.
14. Miscellaneous amendments of the award.
15. Legislation.
16. Inquiries by Secretary of State.
17. For protection of South Wales Electricity Board.
18. Saving rights of lords of manor, commoners, sporting rights, etc.
19. Costs of Act.

SCHEDULES:

Schedule 1—Repeal.

Schedule 2—Award of Benjamin Worthy Horne as amended and continuing in effect.



ELIZABETH II



1976 CHAPTER xxix

An Act to alter the constitution of, and to incorporate, the Conservators appointed for the management of the Coity Wallia Commons, to repeal and amend enactments relating to the Conservators and for the management of those commons and to confer further powers on the Conservators; and for other purposes.
[26th October 1976]

WHEREAS the borough of Ogwr in the county of Mid Glamorgan is under the management and local government of the council of the borough of Ogwr (hereinafter respectively referred to as "the borough" and "the council"):

And whereas there are within the borough certain lands known as Cefn Hirgoed Common, Hirwaun Common, Ystad-y-Waun, Allt-y-Rhiw and Mynydd-y-Gaer (including the lands known as Bryn-y-garn, Tonffre, Tonbach and Waun Wen) and known collectively as Coity Wallia Commons (hereinafter referred to as "the commons") situate in the communities of Pencoed, Coychurch Higher, Saint Bride's Minor and Coity Higher; and all of the said lands are waste of the manor of Coity Wallia of which the trustees of the Dunraven Estate are the lords (hereinafter referred to as "the lords of the manor"):

And whereas in the year 1919 the Board of Agriculture and Fisheries in pursuance of the Inclosure Acts 1845 to 1899 issued a Provisional Order (hereinafter referred to as "the Order") for the regulation of the commons under the general management of the Conservators (hereinafter referred to as "the Conservators") thereunder appointed, and the Order was scheduled to and confirmed by the Commons Regulation (Coity Wallia) Provisional Order Confirmation Act 1919:

1919 c. lxx.

And whereas for the purposes of giving complete effect to the Order Benjamin Worthy Horne was appointed valuer and duly made in his award (hereinafter referred to as "the award") pursuant to the said Inclosure Acts 1845 to 1899 such provisions as the then Minister of Agriculture and Fisheries thought desirable and proper, who duly confirmed the award on 14th August, 1936:

And whereas the council pursuant to an undertaking, which as recited in the award was entered into originally by the Penybont Rural District Council, make contributions towards the maintenance or improvement of the commons or otherwise for the benefit of the inhabitants of the borough in relation to the commons as the Conservators from time to time require, the payment of such contributions being sanctioned under an order of the Minister of Health dated 23rd June, 1920:

And whereas it is expedient that the Order should be repealed and that the award should be continued and have full effect, subject to the alterations and additions specified in this Act and, in particular, that the constitution of the Conservators should be altered as by this Act provided:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

1972 c. 70.

May it therefore please Your Majesty that it may be enacted, and be it 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:—

Short title
and com-
mencement.

1.—(1) This Act may be cited as the Coity Wallia Commons Act 1976.

(2) Sections 3 (Repeals, etc.), 4 (Altered constitution) and 5 (Appointment of six Conservators by commoners) of this

Act and the Schedules to this Act shall come into operation on 1st April, 1977, and the remainder of this Act shall come into operation on its passing.

2.—(1) In this Act, except where the subject or context Interpretation. otherwise requires—

“the award” means the award made in relation to the commons by Benjamin Worthy Horne and sealed and confirmed by the Minister of Agriculture and Fisheries on 14th August, 1936;

“the borough” means the borough of Ogwr;

“the commoners” means the respective persons entitled to rights of common upon the commons and
“commoner” means any one of the commoners;

“the commons” means such of the lands delineated on the map annexed to the award and otherwise as remain under the management of the Conservators and any lands added to those lands by the operation of section 10 (Exchange of common lands) of this Act;

“the Conservators” means the Conservators for the time being appointed under the award;

“the council” means the council of the borough;

“land” includes any estate or interest in land and land covered by water;

“livestock” means cattle, sheep, goats, pigs, horses or geese and includes any other animal in respect of which rights of common are registered under the Commons Registration Act 1965;

1965 c. 64.

“the lords of the manor” means the trustees of the Dunraven Estate or other the lords of the manor of Coity Wallia.

(2) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as applied, extended, amended or replaced by, or by virtue of, any subsequent enactment, including this Act.

3.—(1) The enactment mentioned in Schedule 1 to this Act is Repeals, etc. hereby repealed.

(2) Notwithstanding the repeal of the said enactment by subsection (1) of this section—

(a) so much of the award as is set out in Schedule 2 to this Act (incorporating amendments and modifications, including those made by this Act) shall, subject to the provisions of this Act, continue and have full effect;

(b) section 36 of the Commons Act 1876 shall continue to 1876 c. 56. apply to the commons; and

- (c) the council may continue to make contributions towards the maintenance of the commons and (subject to obtaining the like consents and sanctions as attached to the making of such contributions prior to the commencement of this Act) may from time to time increase the contributions to such amount as the council think fit.

Altered
constitution.

4.—(1) On and after 1st April, 1977, for sub-paragraphs (a) and (b) of paragraph 2 of the award there shall be substituted the following paragraphs:—

“(a) The general management of the commons shall be vested in eighteen Conservators to be appointed from time to time by the persons and bodies following (hereinafter referred to separately as ‘the nominator’ and collectively as ‘the nominators’), that is to say:—

two by the lords of the manor;

two by the Ogwr Borough Council and being members of that council;

two by the Pencoed Community Council and being members of that council;

two by the Coychurch Higher Community Council and being members of that council;

two by the Saint Bride’s Minor Community Council and being members of that council;

two by the Coity Higher Community Council and being members of that council;

six by persons entitled to rights of common over the commons, and in manner prescribed by section 5 (Appointment of six Conservators by commoners) of the Coity Wallia Commons Act 1976.

(b) Notwithstanding anything in this award, any person who holds office as a Conservator immediately before 1st April, 1977, and whose period of office extends beyond that date shall (unless he shall previously die or resign or be removed from office) continue in office on and after that date until the expiry of the period of office for which he was appointed by the nominator concerned; and the appointments of the remaining Conservators to be appointed under paragraph (a) above in the year 1977 shall be made before 1st April, 1977, by the nominators who are concerned.”

(2) In sub-paragraph (f) of paragraph 2 of the award for the words from the beginning to the word “appointed” there shall be substituted the following words:—

“(f) Subject to sub-paragraph (b) above and except as hereinafter provided, each Conservator shall hold office for three years which period shall commence in the case of a Conservator hereafter appointed”.

(3) For sub-paragraph (q) of paragraph 2 of the award there shall be substituted the following paragraph:—

“ (q) The Conservators shall be a body corporate with perpetual succession and a common seal; and the application of the seal of the Conservators shall be authenticated by the signatures of the chairman of the Conservators or some other Conservator authorised in that behalf and of such officer of the Conservators as shall be so authorised.”

5.—(1) The following provisions of this section shall have effect for the appointment from time to time under paragraph 2 of the award of six Conservators by the commoners (in this section referred to as “commoner-Conservators”).

Appointment
of six
Conservators
by
commoners.

(2) If and so long as there is an association of commoners and reasonably appearing to the Conservators to be an association in effective existence, then appointments under this section shall be made by that association; but if it appears to the Conservators that such association has ceased to have an identifiable existence, or has refused or failed to appoint any one of the commoner-Conservators after being requested by the Conservators to do so, those appointments shall be made in manner following:—

- (a) not less than twenty-eight days before the intended appointment the Conservators shall cause notice thereof to be given by advertisement in a newspaper or newspapers circulating in the borough and of the intended holding of a meeting of commoners to make the appointment at a place in the borough, on a date and at a time (not earlier than five nor later than eight in the afternoon) specified in the notice;
- (b) a commoner may be nominated for appointment as a commoner-Conservator in writing either by the Conservators or by two other commoners and no nomination shall be valid if made after the expiry of fifteen minutes after the commencement of the meeting, or if not supported by written acceptance of nomination by the person nominated;
- (c) the clerk of the Conservators or, in the event of his inability to act, some other person appointed by the Conservators shall be the chairman of any meeting for the appointment of any commoner-Conservator under this section and, after examination and announcement of the nominations duly made, the chairman shall, if the nominations do not exceed the vacancies to be filled, declare the candidate or, as the case may be, candidates appointed as Conservators and, in any other case, shall cause an election by ballot of those present and voting to be held forthwith;

(d) a declaration purporting to be signed by the chairman of the election of a candidate to fill a vacancy shall be evidence of the fact.

Power to let certain lands.

6.—(1) Notwithstanding any enactment or rule of law, the Conservators shall have power, with the consent of the Secretary of State but without other sanction or authority, on such terms and conditions as they think fit to let to any persons, or grant a licence to use, the land shown on the signed plan, as if—

(a) the Conservators were the owners of that land; and

(b) that land did not form part of the commons;

and during the term of any such letting or licence the rights of commoners with respect to the land the subject of the letting or licence and the rights of all persons respecting access to that land for recreation or otherwise, shall be suspended.

(2) The Conservators shall be deemed always to have had the powers of subsection (1) of this section.

(3) Any sums received by the Conservators in respect of any letting or licence granted under the powers of this section shall be expended by the Conservators either in the improvement of the commons or in defraying the expenses otherwise incurred by them in the execution of their powers and duties.

(4) In subsection (1) of this section “the signed plans” means the plans marked respectively “A”, “B” and “C”, of which copies have been signed by the Rt. Hon. Earl of Listowel, the chairman of the Committee of the House of Lords to whom the Bill for this Act was referred and deposited respectively at—

(a) the office of the Clerk of the Parliaments, House of Lords;

(b) the Private Bill Office of the House of Commons;

(c) the Welsh Office; and

(d) the office of the chief executive of the county council of Mid Glamorgan.

Car parks.

7.—(1) The Conservators may, without other sanction or authority, use any part of the commons for the provision of parking places for vehicles for use by persons resorting to the commons; and for that purpose may surface the same in such manner as they may think fit and construct and maintain such earth mounds, fences, kerbs, bollards and other physical boundaries (not exceeding 1 metre in height) as they may think necessary.

(2) The Conservators may make such charges for the use of parking places provided by them under this section, and may erect such devices for the collection of charges and controlling such use, as they may think fit.

(3) The Conservators may on such terms and conditions as they think fit (including conditions as to the payment or receipt of money) enter into arrangements with any other person for the provision by him of parking places and the doing by that person of anything which under the foregoing provisions of this section the Conservators are empowered to do.

8.—(1) The Conservators may on such terms and conditions as they think fit (including terms and conditions as to the provision and maintenance of cattle grids or other works) authorise in writing any person, without other sanction or authority, to construct and maintain and (if so stated in the authorisation) thereafter to alter or improve—

Access roads,
garages, etc.,
to premises.

- (a) roads or ways affording vehicular or other access from any highway to dwellings existing at the passing of this Act being dwellings lying within or adjacent to any part of the commons and appearing to the Conservators to lack any such access which is satisfactory;
- (b) garages and forecourts thereto, respectively, appearing to the Conservators necessary for the accommodation of the motor and other vehicles of persons occupying such dwellings and in or on which there appears to the Conservators to be no reasonable alternative means of providing such accommodation;
- (c) roads or ways affording vehicular access from any highway to such garages.

(2) (a) Notwithstanding any enactment or rule of law, the Conservators shall have power, without other sanction or authority, on such terms and conditions as they think fit to let, or grant a licence to use, lands forming part of the commons and on which roads, ways or garages are authorised to be constructed pursuant to subsection (1) of this section; and during the term of any such letting or licence the rights of commoners with respect to the land the subject of the letting or licence and the rights of all persons respecting access to that land for recreation or otherwise, shall be suspended.

(b) Any sums received by the Conservators in respect of any letting or licence granted under the powers of paragraph (a) this subsection shall be expended by the Conservators either in the improvement of the commons or in defraying the expenses otherwise incurred by them in the execution of their powers and duties.

(3) The council may carry out any works which have been authorised by the Conservators to be carried out under subsection (1) of this section; and the council may in that connection enter into arrangements with any person authorised under that

subsection to carry out such works, including arrangements for the reimbursement in whole or in part of the council in carrying out the works.

Area of land to be used for sections 7 and 8.

9. Nothing in section 7 (Car parks) or section 8 (Access roads, garages, etc., to premises) of this Act shall authorise the use for the purposes of those sections of parts of the commons exceeding in aggregate 4 hectares or such greater area as the Secretary of State may from time to time in writing allow.

Exchange of common lands.

10.—(1) Subject to the consent of the Secretary of State and to the prior approval of a meeting of commoners (being convened by an association of commoners reasonably appearing to the Conservators to be in effective existence, or convened in the manner prescribed by subsection (2) (a) of section 5 (Appointment of six Conservators by commoners) of this Act) the Conservators may by resolution authorise the lords of the manor to exchange for land (in this section referred to as the “land disposed of”) forming part of the commons and owned by the lords of the manor other lands (in this section referred to as the “added land”) intended for addition to the commons and to be so owned.

(2) Upon the exchange of any land referred to in any resolution under subsection (1) of this section—

- (a) the land disposed of shall thereupon cease for all purposes to form part of the commons and shall be freed from all rights or obligations whatsoever attaching thereto in virtue of its having been common land; and
- (b) the added land shall be and become subject to all rights and obligations under any enactment or rule of law attaching to the land disposed of (including rights of common registered, whether provisionally or otherwise, under the Commons Registration Act 1965) as common land including the provisions of the award and of this Act, as if the added land had at all material times formed part of the commons.

1965 c. 64.

(3) Unless otherwise specified in the approval of a meeting of commoners and in the resolution of the Conservators respectively given or made under subsection (1) of this section there shall be included in each transfer of land disposed of a covenant on the part of the transferee for himself and his successors in title providing (in the absence of such a fence) for the erection of a stock proof fence along such of the boundaries of the land disposed of as abut on lands which from and after the exchange form part of the commons and for the maintenance of such fence at all times thereafter.

11.—(1) Notwithstanding any enactment or rule of law, the Conservators may in or upon any road or way within the commons (including, with the consent of the highway authority, any road or way being a highway), and on land forming part of the commons adjacent to such road or way, provide and maintain, alter, improve and remove cattle grids and associated by-passes, works and conveniences (hereafter in this section called “cattle grids”) for preventing the straying of livestock from the commons and may erect and maintain fences at and about the boundaries of the commons and of the highways lying both within and near to those boundaries, but (as respects such fences) not so as to obstruct or interfere with any existing access or way from other land on to the commons otherwise than with the consent of the owner and occupier of such land.

Fencing,
cattle grids,
etc.

(2) The provisions of subsections (2), (5) and (6) of section 87 and of sections 88, 89, 91, 93, 95, 96 and 97 of and Schedule 10 to the Highways Act 1959 shall with all necessary modifications apply with respect to the provision, maintenance, alteration, improvement or removal of cattle grids in or adjacent to a highway by the Conservators under subsection (1) of this section as if the Conservators were a highway authority; and, in the exercise of the powers of that subsection in relation to cattle grids serving any road, not being a highway, the Conservators shall provide by means of a gate or other works on or adjacent to the road or way facilities for the passage of animals.

1959 c. 25.

(3) The Conservators may enter into arrangements—

(a) with the highway authority for any highway within the commons for the carrying out by that authority on behalf of the Conservators of works for the provision and maintenance, alteration, improvement or removal of cattle grids under the powers of this subsection; or

(b) with any person as respects the provision of fencing under the said powers.

12.—(1) Subject to the provisions of this section the Conservators may in or upon lands within the commons for the purpose of—

Improving turf
and protecting
trees.

(a) reseeding, improving or assisting the recovery of the surface and of any turf thereon;

(b) for the protection of newly planted trees or groups of trees;

erect and maintain fences for enclosing and (save in so far as the Conservators may see fit to permit access) excluding livestock and persons from parts of the commons.

(2) The aggregate of the areas which are enclosed contemporaneously—

(a) under the powers of this section shall not exceed one-twentieth of the whole area of the commons; and

(b) under the powers of paragraph (b) of subsection (1) of this section shall not exceed 15 acres;

except with the approval first obtained of a meeting of commoners convened by an association of commoners reasonably appearing to the Conservators to be in effective existence, or of a meeting convened in the manner prescribed by subsection (2) (a) of section 5 (Appointment of six Conservators by commoners) of this Act.

(3) No part of the commons shall be so enclosed for the purposes of paragraph (a) of subsection (1) of this section for longer than two in any period of five years, nor for the purposes of paragraph (b) thereof in any one case for longer than a continuous period of twelve years.

(4) The Conservators may on such terms and conditions as they think fit authorise any other person to do anything (except with respect to cattle grids serving any highway) which the Conservators are empowered to do under the foregoing provisions of this section.

Protection of
the commons.

13. The Conservators may take such steps for the protection of the commons against unlawful interference as could be taken by an owner in possession of land and may (without prejudice to any power exercisable apart from this section) institute proceedings for any offence committed in respect of the commons:

Provided that before in any case exercising the powers of this section the Conservators shall consult the lords of the manor.

Miscellaneous
amendments
of the award.

14.—(1) (a) For sub-paragraph (r) of paragraph 2 of the award there shall be substituted the following sub-paragraph—

“(r) The Conservators shall, as respects animals trespassing upon the Commons or found upon the Commons in contravention of any byelaw or regulation of the Conservators for the time being in force, have the like powers as are conferred on the occupier of land by section 7 of the Animals Act 1971 (which makes provision for the detention and sale of trespassing livestock)”.

1971 c. 22.

(b) In sub-paragraph (s) of that paragraph there shall be inserted after the word “assistance” the words “(whether or not involving the expenditure of money)”.

(2) (a) In sub-paragraph (a) (1) of paragraph 3 of the award there shall be substituted for the words "cattle and sheep" the words "livestock within the meaning of the Coity Wallia Commons Act 1976".

(b) For sub-paragraph (a) (2) of paragraph 3 of the award there shall be substituted the following sub-paragraph:—

"(2) To plant or to authorise other persons to plant trees on parts of the commons whether for shelter or otherwise and to fell or to authorise the felling of such trees; and in any other way to improve or add to the beauty of the commons."

(3) (a) In sub-paragraph (a) of paragraph 4 of the award the words "(subject to confirmation thereof in manner provided by the Commons Act 1876)" and sub-paragraph (a) (2) shall be omitted and there shall be inserted at the end of the sub-paragraph the following:—

"(5) Regulating or prohibiting the parking of vehicles on the commons or on such part thereof as may be specified in the byelaws;

(6) Requiring the marking of livestock grazed or kept on the commons in such reasonable manner and according to such reasonable prescriptions and conditions as may be specified in the byelaws.

All byelaws made by the Conservators shall be subject to the provisions contained in subsections (3) to (8) of section 236 and section 237 of the Local Government Act 1972 as if the Conservators were a local authority within the meaning of that section and the clerk to the Conservators were the proper officer (within the meaning of the said Act of 1972) of that local authority; but subject to the modifications that in the said section 237 for the references to sums of £20 and £5 there shall be substituted respectively references to sums of £100 and £10. The confirming authority for the purposes of the said section 236 shall be the Secretary of State."

(b) Nothing in paragraph (a) of this subsection shall affect the continuance in effect of the byelaws of the Conservators confirmed by the Secretary of State on 1st September, 1940, and byelaw 22 thereof (which relates to fines for offences) shall have effect as from the commencement of this section as if for the words "two pounds" there were substituted the words "one hundred pounds":

Provided that the amendment so made to the said byelaw 22 shall not have effect in relation to any offence committed before the commencement of this section.

(4) In sub-paragraph (1) of paragraph 5 of the award there shall be inserted after the word "games" the words "or as shall for the time being be appropriated under sections 6, 7, 8 or 10 (2) of the Coity Wallia Commons Act 1976 by way of letting or licence under the said section 6, as a car park under the said section 7, as access ways or for garages or forecourts under the said section 8 or for the recovery of the surface or the protection of trees under the said section 10 (2)".

(5) In sub-paragraph (2) of the said paragraph 5 for the words in parentheses there shall be substituted the words "(not greater in extent than twenty hectares in all)".

(6) Paragraphs 9, 11, 12, sub-paragraph (a) (2) of paragraph 13 and the Second Schedule shall be omitted.

(7) In sub-paragraph (2) of paragraph 14 the words "or which have been sold for the expenses of this Regulation" shall be omitted.

Legislation.

15. The Conservators may promote or oppose Bills in Parliament and may apply for, or oppose, applications for orders, byelaws, schemes or awards made under any Act:

Provided that a resolution of the Conservators to promote a Bill in Parliament shall be passed only if not less than three-quarters of the whole number of the Conservators vote in favour of such resolution.

Inquiries by Secretary of State.

16. The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the confirmation of any byelaw under this Act or under the award and section 250 of the Local Government Act 1972 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Conservators were a local authority.

1972 c. 70.

For protection of South Wales Electricity Board.
1882 c. 56.

17.—(1) In this section—

"apparatus" means any electric line or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the board and includes any works constructed for the lodging therein of apparatus;

"the board" means the South Wales Electricity Board.

(2) Notwithstanding the letting of, or grant of a licence to use, any lands under the powers of section 6 (Power to let certain lands) or any part of the commons under the powers of section 8 (Access roads, garages, etc., to premises) or any exchange of land under

the powers of section 10 (Exchange of common lands) or the enclosure of any part of the commons under the powers of section 11 (Fencing, cattle grids, etc.) or section 12 (Improving turf and protecting trees) of this Act, the board shall have the same rights, including rights of access, in respect of any apparatus situate in, under, over or upon the said lands or commons that they enjoyed immediately before such letting, grant of licence, exchange or enclosure.

(3) In the exercise of the powers of section 7 (Car parks), section 8 (Access roads, garages, etc., to premises), section 11 (Fencing, cattle grids, etc.) or section 12 (Improving turf and protecting trees) of this Act the Conservators, the council or any person acting by arrangement with or on the authority of the Conservators shall not damage or injuriously affect apparatus or, without the consent of the board which shall not be unreasonably withheld, interfere with, surface or construct any works over, any apparatus; and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus.

(4) Any question or difference which may arise under this section shall be referred to and determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party, after giving notice in writing to the other party, by the President of the Institution of Civil Engineers.

18. Except as otherwise expressly provided in this Act, nothing in this Act shall affect prejudicially any of the rights mentioned in sub-paragraphs (1), (2) and (3) of paragraph 14 of the award and, subject to the exceptions and reservations therein mentioned, that paragraph shall with necessary modifications extend and apply with reference to this Act as it applies to the award but as if in the said sub-paragraph (2) there were inserted after the word "gardens" the words "or which are for the time being the subject of any letting or licence under the powers of section 6 or subsection (2) of section 8 of the Coity Wallia Commons Act 1976".

Saving rights
of lords of
manor,
commoners,
sporting
rights, etc.

19. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall in the first instance be paid by the council but shall be repaid to them by the Conservators and in whole or in part may be so repaid out of the Conservators' revenue.

Costs of
Act.

SCHEDULES

Section 3.

SCHEDULE 1

REPEAL

1919 c. lxx.

Commons Regulation (Coity Wallia) Provisional Order Confirmation Act 1919.

Section 3.

SCHEDULE 2

AWARD OF BENJAMIN WORTHY HORNE AS AMENDED AND CONTINUING
IN EFFECT

Copy Award

TO ALL TO WHOM THESE PRESENTS SHALL COME I, BENJAMIN WORTHY HORNE, of 4, Lincoln's Inn Fields, in the County of London, Solicitor, SEND GREETING:

WHEREAS in the year 1919 the Board of Agriculture and Fisheries in pursuance of the Inclosure Acts 1845 to 1899 issued a Provisional Order (hereinafter referred to as "the Order") for the Regulation of certain lands known as Cefn Hirgoed Common Hirwaun Common Ystad-y-Waun Allt-y-Rhiw and Mynydd-y-Gaer and which lands include the lands known as Bryn-y-Garn Tonffre Tonbach and Waun Wen and are collectively known as Coity Wallia Commons (hereinafter referred to as "the Commons") situate in the Parishes of Pencoed Coychurch Higher Saint Bride's Minor and Coity Higher in the County of Glamorgan all of which said lands are waste of the Manor of Coity Wallia of which Manor the Dunraven Estates Company Limited (hereinafter called "the Lords of the Manor") claim to be Lords

AND WHEREAS the Order was confirmed by the Commons Regulation (Coity Wallia) Provisional Order Confirmation Act 1919 (9 and 10 Geo V. c. 70)

AND WHEREAS the Order recited that the Penybont Rural District Council had with the consent of the Council of the County of Glamorgan undertaken to contribute out of their funds towards the maintenance or improvement of the commons or otherwise for the benefit of the inhabitants of the district in relation to the Commons such amounts (hereinafter referred to as "special contributions") as the Conservators hereinafter appointed might from time to time require but not exceeding in any half-year the amount produced by a rate of one halfpenny in the pound levied for special expenses on the Parishes of Pencoed Coychurch Higher and Saint Bride's Minor and on such part of the Parish of Coity Higher as lies within the Manor of Coity Wallia

AND WHEREAS payment of such special contributions was sanctioned under an Order of the Minister of Health dated the 23rd day of June 1920

AND WHEREAS for the better regulation of the Commons the Order provided that certain powers could be exercised by the Conservators with the consent of the Lords of the Manor

AND WHEREAS the Lords of the Manor by a Deed Poll dated the 16th day of March 1927 consented to the exercise of the said powers

SCH. 2
—cont.

AND WHEREAS by the Order it is among other things provided that for the purpose of giving complete effect thereto there should be inserted in the AWARD to be made in pursuance of the said Inclosure Acts such provisions not inconsistent with those Acts as the Board (now Minister) of Agriculture and Fisheries (hereinafter in this Preamble referred to as "the Minister" but otherwise referred to in the Order as the Secretary of State being the successor to the functions of the Minister under the Order) should think desirable and proper

AND WHEREAS I the said Benjamin Worthy Horne having been duly appointed the Valuer in the matter of the said Regulation and having made the declaration required by the said Inclosure Acts have duly held all necessary meetings and have drawn up and sent to the Minister my Report in the matter of the said Regulation with maps and have in all other respects complied with the provisions of the said Acts

AND WHEREAS all such objections as have been made to my said Report having been heard and all such enquiries having been made in relation thereto as the Minister has thought fit the Minister has authorised and directed me to cause to be drawn up and engrossed on parchment my AWARD in the matter of the said Regulation

1. NOW KNOW YE that in pursuance of the provisions of the said Acts and by virtue of the powers and authority in me vested I the said BENJAMIN WORTHY HORNE the Valuer as aforesaid do make and declare this to be my AWARD in the matter of the said Regulation and to this my AWARD I have annexed a map (in nine parts—with key plan) as required by the said Acts on which the Commons to be regulated are delineated by the colour green such map being taken from the Ordnance Survey maps on the scale of 1/2500 with the necessary additions thereto.

2. I DECLARE that for the IMPROVEMENT of the COMMONS the following provisions shall be in force:—

(a) The general management of the Commons shall be vested in eighteen Conservators to be appointed from time to time by the persons and bodies following (hereinafter referred to separately as "the nominator" and collectively as "the nominators"), that is to say:—

- two by the Lords of the Manor;
- two by the Ogwr Borough Council and being members of that council;
- two by the Pencoed Community Council and being members of that council;
- two by the Coychurch Higher Community Council and being members of that council;
- two by the St. Bride's Minor Community Council and being members of that Council;
- two by the Coity Higher Community Council and being members of that council;

SCH. 2
—cont.

six by persons entitled to rights of common over the Commons, and in manner prescribed by section 5 (Appointment of six Conservators by commoners) of the Coity Wallia Commons Act 1976

(b) Notwithstanding anything in this AWARD, any person who holds office as a Conservator immediately before 1st April 1977, and whose period of office extends beyond that date shall (unless he shall previously die or resign or be removed from office) continue in office on and after that date until the expiry of the period of office for which he was appointed by the nominator concerned; and the appointments of the remaining Conservators to be appointed under paragraph (a) above in the year 1977 shall be made before the 1st April 1977 by the nominators who are concerned

Clerk.

(c) The Conservators shall appoint a Clerk (hereinafter referred to as "the Clerk") to hold Office at the pleasure of the Conservators with or without remuneration except that if the Clerk is a Conservator he shall receive no remuneration

Treasurer.

(d) The Conservators shall appoint a Treasurer without remuneration to hold Office at the pleasure of the Conservators

(e) Every appointment of a Conservator made hereafter shall be notified in writing by the nominator or where the nominator is a Council by the Clerk or Chairman of the Council to the Clerk and such notice shall be conclusive evidence of such appointment

Conservators' period of office.

(f) Subject to sub-paragraph (b) above and except as hereinafter provided, each Conservator shall hold Office for three years which period shall commence in the case of a Conservator hereafter appointed from the date of his appointment and any Conservator shall be eligible for re-appointment: PROVIDED that a Conservator may at any time be removed from his Office by his nominator giving to the Clerk notice in writing of such removal

Resignations.

(g) A Conservator may resign his Office at any time by giving to the Clerk notice in writing which shall specify the date when the resignation is to take effect

Casual vacancies.

(h) Any casual vacancy caused by the resignation or death of a Conservator shall forthwith be notified in writing to the nominator by the Clerk and any casual vacancy caused by the removal resignation or death of a Conservator shall forthwith be filled by the nominator and if not so filled within two months after the sending of the notification or the receipt by the Clerk of the notice of removal from Office as the case may be the vacancy shall be filled by the Conservators on behalf of the nominator

(i) A Conservator appointed to fill a casual vacancy shall hold Office until the date when the Conservator whose office he fills would have ceased to hold his Office and no longer

- (j) The Conservators shall appoint a Chairman for such period as they consider desirable and he or the Conservator chosen by the Conservators present at any meeting to preside at such meeting in the absence of the Chairman shall have a second or casting vote SCH. 2
—cont.
Chairman.
- (k) The Conservators shall provide and maintain an Office for the transaction of their business Office, meetings.
- (l) The Conservators shall meet at least twice every year
- (m) Five shall form a quorum at all meetings of the Conservators Quorum.
- (n) The Conservators may frame rules for the conduct of their business
- (o) No action of the Conservators shall be invalidated by reason of any informality in the appointment of any Conservator or any vacancy in the number of Conservators
- (p) The Conservators may appoint a sufficient number of keepers and other persons to assist in the management and maintenance of the Commons as they think fit Keepers.
- (q) The Conservators shall be a body corporate with perpetual succession and a common seal; and the application of the seal of the Conservators shall be authenticated by the signatures of the chairman of the Conservators or some other Conservators authorised in that behalf and of such officer of the Conservators as shall be so authorised Body corporate
- (r) The Conservators shall, as respects animals trespassing upon the Commons or found upon the Commons in contravention of any byelaw or regulation of the Conservators for the time being in force, have the like powers as are conferred on the occupier of land by section 7 of the Animals Act 1971 (which makes provision for the detention and sale of trespassing livestock) Detention, etc.,
of trespassing
livestock.
1971 c. 22.
- (s) The Conservators may in their absolute discretion for the protection of the Commons render assistance (whether or not involving the expenditure of money) to any Commoner in the maintenance of his rights of common. Assistance to
Commoners.
- 3.—(a) The Conservators shall have power— Powers of
management.
- (1) To drain manure and level the Commons where necessary for the purpose of improving the Commons for the pasturage of livestock within the meaning of the Coity Wallia Commons Act 1976 or the purposes of recreation
 - (2) To plant or to authorise other persons to plant trees on parts of the Commons whether for shelter or otherwise and to fell or to authorise the felling of such trees; and in any other way to improve or add to the beauty of the Commons
 - (3) To cut the bracken from time to time on any parts of the Commons (except the part or parts for the time being appropriated for the purpose of supplying bracken for the labouring

SCH. 2
—cont.

poor as hereinafter provided) if and so far as such cutting is in the opinion of the Conservators expedient for the improvement of the pasturage: PROVIDED that there shall always be left a sufficient quantity of bracken to satisfy the lawful requirements of the Commoners and the Conservators may sell any bracken so cut and shall apply the proceeds of such sale in or towards the expenses of the execution of their powers and duties under the Order; and

- (4) Generally to manage the Commons and in particular to preserve maintain manage and protect the part of the Commons known as the Common Wood at Allt-y-Rhiw.

*Permits for
special uses.*

(b) With the sanction of the Lords of the Manor already obtained by the hereinbefore recited Deed Poll of the 16th March 1927 and with the sanction of a meeting of the persons entitled to rights of common over the Commons and in the case of a general sanction subject to any limitation or condition imposed by the sanction the Conservators may if they think fit and on such terms and conditions as to payment or otherwise as they think fit permit on the Commons:—

- (1) The formation and use of one or more golf courses;
- (2) The formation and use of one or more rifle ranges;
- (3) The formation and use of one or more racecourses;
- (4) The formation and use of one or more aerodromes;
- (5) The holding of fairs shows circuses tournaments gymkhanas public or private meetings relating to religion politics or sport Eisteddfodau and other singing festivals or competitions or concerts and the erection pitching or fixing of any temporary booth stage or tent for any of the above-mentioned purposes;
- (6) The use of part of the Commons for temporary encampments of Territorial Forces Church Lads Brigades Scouts Girl Guides and similar organisations or of any other persons or bodies;
- (7) The erection of temporary buildings of a design and material to be approved by the Conservators and suitable for live stock to be fed upon the Commons:

PROVIDED that all sums received by the Conservators in respect of the grant of any such permits shall be expended by them either on the improvement of the Commons or in defraying the expenses otherwise incurred by the Conservators in the execution of their powers and duties.

(c) A meeting of the persons entitled to rights of common for the purpose of considering a proposal for any such sanction as aforesaid shall be held at such time and place and after such notification as the Conservators shall direct and at any such meeting a Conservator selected by the Conservators shall act as Chairman and a minute of any resolution of the meeting signed by the Chairman shall be sufficient evidence of the resolution having been passed by a majority of the persons present and entitled to vote.

4.—(a) The Conservators may make and from time to time alter or revoke byelaws and regulations for—

SCH. 2
—cont.

Byelaws.

(1) Preventing nuisances on the Commons or protecting them therefrom or for keeping order thereon;

* * * * *

(3) Regulating the exercise of any rights of common therein or thereon or of any rights or privileges granted to the labouring poor or other persons under or in pursuance of the Order; and

(4) Regulating the exercise of the privileges hereinafter reserved of access recreation and of playing of games on the Commons;

(5) Regulating or prohibiting the parking of vehicles on the Commons or on such part thereof as may be specified in the byelaws;

(6) Requiring the marking of livestock grazed or kept on the Commons in such reasonable manner and according to such reasonable prescriptions and conditions as may be specified in the byelaws.

All byelaws made by the Conservators shall be subject to the provisions contained in subsections (3) to (8) of section 236 and section 237 of the Local Government Act 1972 as if the Conservators were a local authority within the meaning of that section and the clerk to the Conservators were the proper officer (within the meaning of the said Act of 1972) of that local authority; but subject to the modifications that in the said section 237 for the references to sums of £20 and £5 there shall be substituted respectively references to sums of £100 and £10. The confirming authority for the purposes of the said section 236 shall be the Secretary of State. 1972 c. 70.

(b) All byelaws so confirmed shall be exhibited in legible characters in English on boards placed on the Commons the number and positions of such boards to be determined by the Conservators with due regard to the necessities of the case.

(c) The keepers appointed as aforesaid shall have power to enforce the observance of all such byelaws and regulations under the direction of the Conservators.

5. AND I DECLARE that in pursuance of the said Order and for the BENEFIT OF THE NEIGHBOURHOOD the following provisions shall be in force:— *Quarries, recreation, &c.*

There shall be reserved subject to such byelaws and regulations as may be made by the Conservators and confirmed as by law required—

(1) A right of free access at all times to the Commons (except such parts thereof as have been sold or set out for field gardens as hereinafter mentioned or as shall be appropriated hereunder for quarries or for the playing of games or as shall for the time being be appropriated under

SCH. 2
—cont.

sections 6, 7, 8 or 10 (2) of the Coity Wallia Commons Act 1976 by way of letting or licence under the said section 6, as a car park under the said section 7, as access ways or for garages or forecourts under the said section 8 or for the recovery of the surface or the protection of trees under the said section 10 (2)) and a privilege of recreation by walking and riding and enjoying air and exercise thereon;

(2) A privilege of playing games on such parts (not greater in extent than twenty hectares in all) of the Commons as shall be convenient for the inhabitants of the neighbourhood in such situation and of such area in each case as the Conservators with the approval of the Secretary of State shall from time to time appoint and the Conservators may cause any such part or parts to be temporarily inclosed with posts and chains or other open fences provided that no part of the portions of Hirwaun Common and Mynydd-y-Gaer Common cross-hatched green on the map shall be reserved for playing games without the consent of the Lords of the Manor.

*Taking of stone
and gravel.*

6. AND I DIRECT that the Conservators shall appropriate and set out quarries from time to time to the satisfaction of the Secretary of State for the getting of stone and gravel by the persons (including the Lords of the Manor and their tenants) entitled to rights of taking stone and gravel from the Commons for use in or upon the tenements to which such rights are appendant or appurtenant but not otherwise or for sale and the Conservators may cause any part of such quarries to be properly fenced so as to prevent injury to persons using the Commons or to horses cattle or other animals pastured thereon.

*Supply of
bracken.*

7. AND I DECLARE that I hereby set out for the purpose of supplying bracken for the labouring poor of the Parishes of Pencoed Coychurch Higher Saint Bride's Minor and Coity Higher (other than persons entitled to rights of common for that purpose) such parts of the Commons growing bracken as lie between Heol Spencer and Pencoed and are not used for field gardens and any parts of Mynydd-y-Gaer growing bracken and the parts so set out may be marked out in such manner as the Conservators think fit but shall not be fenced or inclosed.

THIS appropriation shall not affect any right of common of pasture exercisable over the part or parts so appropriated. The said labouring poor of the said Parishes shall have the exclusive right to cut and take bracken from such part or parts appropriated as aforesaid for their own use on the lands or tenements in their own occupation but not for sale. The Conservators may from time to time with the consent of the Secretary of State alter the situation of any part or parts to be appropriated as aforesaid after having given such notice of the intended alteration as the Secretary of State shall direct.

Field gardens.

8. I DECLARE that I have also set out for the use of the labouring poor of the said Parishes the field gardens specified in the First Schedule hereto and shown on the said map by diagonal lines in colour blue.

* * * * *

10. I DECLARE that the Conservators may set out make and maintain roadways bridleways and footpaths over the Commons as may in the opinion of the Conservators be necessary.

SCH. 2
—cont.

*Power to set
out
roadways, &c.*

* * * * *

13.—(a) I DIRECT that the expenses to be incurred by the Conservators from time to time in the execution of their powers and duties shall be defrayed out of any moneys that may be received by the Conservators in respect of—

*Defraying of
expenses.*

(1) The sale of bracken as aforesaid;

* * * * *

(3) Any money obtained for permits as hereinbefore mentioned;

(4) Any money that may be contributed for that purpose by any person or local authority or body of persons including the recovery of any special contributions as hereinbefore described; or

(5) Any compensation paid to the Conservators under this AWARD or under any statutory enactment.

(b) THE Conservators may defray out of the moneys received by them as aforesaid the reasonable expenses incurred by them in carrying out their duties other than those incurred by them in attending meetings of the Conservators held at their Offices.

14. I DECLARE that this AWARD except so far as is herein expressly provided is without prejudice to—

Savings.

(1) Any rights of the Commoners in or over the Commons; and

(2) Any rights of the Lords of the Manor in or over the soil of the Commons including the mines and minerals thereunder and all such rights may be exercised in the same manner and to the same extent and subject to the like liability (if any) to pay compensation as if this AWARD had not been made save and except that the said Lords shall not be entitled to enter for the purpose of opening working and winning such mines and minerals or any adjoining minerals on the surface of any parts of the Commons appointed for the playing of games or appropriated as quarries or set out as field gardens or which are for the time being the subject of any letting or licence under the powers of section 6 or subsection (2) of section 8 of the Coity Wallia Commons Act 1976 and that any such compensation shall be paid to the Conservators to be applied by them as aforesaid and the Conservators shall have power to sue for recover receive and give effectual receipts for such compensation; and

(3) Any rights of sporting or fishing over or on the Commons.

SCH. 2
—cont.

THE FIRST SCHEDULE

THE parts of the Commons set out for field gardens shown by diagonal lines in BLUE on the map.

Number on Map	Number of Part of Map	Parish	Boundaries	Acreage
1	1	St. Bride's Minor	N. Ty'n-y-coed Row S. Bryncethin Road ...	6.25
2	1	" "	E. Bryn-côch Road at Gwaungwaddod W. Boundary of Common ...	6.30
3	2	" "	E. Road to Pen-yr-heol W. Boundary of Common ...	5.37
4	3	Coity Higher ...	N. Footpath S.W. Parc-gwylt-Fâch N.E. Reservoir ...	6.25
5	3	" "	N. Footpath E. Road S. Footpath and road ...	7.16
6	3	" "	N. Footpath W. Road S. Common boundary ...	11.45
7	3	" "	S. Pant-y-pyllau S.W. Footpath to Roman Camp	2.39
8	5	St. Bride's Minor and Coychurch Higher	E. Woodbine Terrace N. Railway S. Broad Street ...	11.90
9	6	Coychurch Higher	S.W. Road at Cornel-du-Mawr N. Boundary of Common ...	4.35
10	7	Pencoed ...	N. Ystad-y-Waun S.W. Maes-y-deri ...	3.35
11	7 8	" "	S. Pen-y-lan and Pen-y-lan-fach N. Footpath to Pen-Prisk ...	11.03
12	8	" "	S. Penbryn-cwm-Row E. Heol-y-cyw Road ...	1.65
			Total acres ...	77.45

IN TESTIMONY whereof I the said BENJAMIN WORTHY HORNE have to this my AWARD set my hand this 13th day of August One thousand nine hundred and thirty-six.

SCH. 2
—cont.

(Signed) B. W. HORNE,
Valuer.

IN WITNESS and CONFIRMATION whereof the Official Seal of the MINISTER OF AGRICULTURE AND FISHERIES is hereunto affixed this 14th day of August One thousand nine hundred and thirty-six.

(L.S.) (Signed) D. B. TOYE,
Assistant Secretary.

————— *es* —————
PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR HAROLD GLOVER

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

50p net

ISBN 0 10 512976 3