



CHAPTER cciv.

An Act to make provision with respect to certain lands known as the Brent, at or near Dartford, in the county of Kent.

A.D. 1877.

[6th August 1877.]

WHEREAS in or about the year 1778 certain lands known as The Estate and Manor of Bignores, with the mansion-house, powder mills, powder magazines, and offices thereon, situated in the parishes of Dartford, Sutton, Wilmington, and Darent, in the county of Kent, and including certain lands then uninclosed, and described as pasture, known as "The Brimp" or "Brent," were sold by public auction by order of the then assignees in bankruptcy :

And whereas the said lands comprised in the whole about three hundred and sixty acres, of which the Brimp or Brent contained about forty acres, with five acres of roads or thereabouts :

And whereas, under divers wills and other instruments effectual in the law, Frederick Alexander Preston Pigou, Esquire, of Bignores, in the county of Kent (in the preamble to this Act referred to as "the owner"), is now or claims to be the tenant for life of the whole of the said lands :

And whereas from time to time portions of the Brimp or Brent, amounting to about ten acres, have been inclosed and brought into cultivation, and a mill and eight cottages built thereon, by the owner or his predecessors in title, and another portion of the same, containing about one acre, was let in or about the year one thousand eight hundred and fifty-three, for a term of ninety-nine years, to the Dartford Local Board of Health (herein-after referred to as "the Local Board"), at a rent of twenty-five pounds per annum, for the purpose of a reservoir and waterworks, and the reservoir has been erected thereon, and the lease of the said portion of land, and the works thereon, has since been sold by the Local Board, and is now held by the Kent Waterworks Company :

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A.D. 1877. And whereas the residue of the Brimp or Brent remaining open or uninclosed has been from time to time let on lease by the owner or his predecessors in title, with other their lands at or near Dartford, and no rights of ownership in respect of the Brimp or Brent have at any time been exercised by any other person than the owner and his predecessors in title, or his or their tenants or agents :

And whereas, notwithstanding that the lands at the period of such sale were known as The Estate and Manor of Bignores, the same were conveyed as freehold lands, and there are no copyholders thereon, and no manor court has been held since the sale and acquisition of the property in 1778, and it is alleged that no commonable rights or rights of common are or have been exercised thereon during the said period, or, so far as can now be ascertained, previous to that date :

And whereas it is alleged that the greater portion of the Brimp or Brent until such inclosure and cultivation as aforesaid was covered with a thick scrub or gorse, rendering the same impassable for purposes of recreation, and that such gorse was only removed by the lessee of the Brimp or Brent, by the direction of the owner, from the portion remaining uninclosed within the last six years, but an open space from five to six acres has for many years existed, upon which from time to time cricket and other games have been played by the inhabitants of Dartford, as the owner alleges, by the permission of himself and of his predecessors in title, and his or their tenants, and subject in some cases to a nominal payment, but, as the said inhabitants have recently alleged, by customary right; and the said inhabitants further claim the right of playing cricket or other games over the whole of the Brimp or Brent if the same were or could be made available, and of using the same for other purposes of recreation :

And whereas the Brimp or Brent is not, as the said owner contends, a common in any sense whatever, and is not "a common" or "waste land of a manor" within the definition contained in "The Commons Act, 1876," or within the meaning of "The Inclosure Acts, 1845 to 1868;" and no part of the Brimp or Brent being within the Metropolitan Police District the provisions of "The Metropolitan Commons Act, 1866," and "The Metropolitan Commons Amendment Act, 1869," are not applicable thereto, and the right claimed, although in its nature analogous to a right of common, cannot therefore, as the said owner is advised, be entertained or dealt with by the Inclosure Commissioners :

And whereas it is expedient, with a view to the speedy determina-

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tion of the question and the avoidance of litigation, that provision should be made for ascertaining and declaring what (if any) rights of recreation or other rights exist in and over the Brimp or Brent, and by whom such rights respectively may be exercised, and what is the value of the interest or estate of the owner and of any other persons in the soil or freehold of the Brent, regard being had to such alleged rights of recreation and other rights (if any), and for settling all questions concerning the Brent by the purchase of the soil and freehold thereof for the benefit of the public, and if any such rights should be found to exist, then for ascertaining what commutation, by the allotment of portions of the Brimp or Brent to or for the enjoyment, under proper regulations, of the persons (if any) entitled to such right, would under all the circumstances be reasonable and expedient :

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

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 ; (that is to say,)

1. This Act may for all purposes be cited as "The Bignores (Dartford) Estate Act, 1877." Short title.

2. For the purposes of this Act the expression "the Brent" shall mean and include that portion of the Brimp or Brent forming part of the Bignores Estate which at the passing of this Act is open and uninclosed, and any part thereof which has been opened and uninclosed at any time within twenty years immediately preceding the passing of this Act. Definition of "the Brent."

3. The provisions of this Act shall be carried into execution by the Inclosure Commissioners for England and Wales (herein-after referred to as "the Inclosure Commissioners"), acting either by themselves or by an Assistant Commissioner duly authorised in that behalf under the powers of the several Acts relating to the Inclosure Commissioners and this Act. Act to be executed by Inclosure Commissioners.

4. For the purposes of any inquiry to be held by the Inclosure Commissioners, or of any other proceedings under this Act, the following provisions shall be observed and have effect :

(A.) The rights of property in the Brent, and the conflicting claims or rights over or affecting the surface of the Brent, shall be represented before the Commissioners in manner herein-after provided. Provision for representation of interests before Inclosure Commissioners.

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(B.) The said Frederick Alexander Preston Pigou (or in the event of his decease, then the person entitled to the first estate of inheritance in the whole of the lands aforesaid, acting by himself or his guardian) shall for all purposes represent his own interest, and the interests of the several persons who are or may be entitled to the fee simple of the Brent or any less estate therein, and to the rents and profits thereof, whether in possession, remainder, or expectancy, and his or their successors or sequels in estate or title (and the said Frederick Alexander Preston Pigou, or, in the event of his decease, the person entitled to the first estate of inheritance as aforesaid, and all such persons represented by him, are herein-after collectively referred to as "the owner").

(c.) The inhabitants of Dartford, and all persons (other than the owner) claiming to possess or exercise or enjoy or be entitled to any right or easement whatsoever over or affecting the Brent or any part thereof, or any of such inhabitants or persons, may, for the purposes of this Act or any of them, be represented by the Local Board (being the urban sanitary authority for the district within which the Brent is situated) or by the mayor and commonalty and citizens of the city of London (herein-after called the "Corporation of London"); but any person claiming as aforesaid may nevertheless, by himself, his counsel, solicitor, or agent, and witnesses, appear and advocate and prove his claim, and protect his interests, before the Inclosure Commissioners.

Functions
of Inclosure
Commis-
sioners.

5. The Inclosure Commissioners shall, with all due despatch, do the following acts :

(1.) They shall inquire whether any, and, if any, what rights of recreation or other rights over or affecting the Brent are claimed, and by whom such rights (if any) are capable of being exercised.

(2.) They shall ascertain and define the boundaries of the Brent, and shall cause a map or plan to be made showing the boundaries of the Brent, and any other particulars necessary or desirable in relation thereto.

(3.) They shall ascertain and define, as nearly as may be, the nature of the rights so claimed, and the validity or invalidity thereof, and shall by their award establish, or, as the case may be, negative, partially or wholly, the existence of any such rights.

(4.) They shall determine what allotment out of the Brent for purposes of exercise and recreation shall be made as com-

pensation for and in extinguishment of such rights (if any) : A.D. 1877.

Provided that in making such allotment regard shall be had to the interests of any person who shall have been ascertained by the Commissioners to be entitled to any right (other than a right of exercise and recreation) over or affecting the Brent; and such provision may be made either for the exercise of such right over the portion of the Brent allotted as an open space or for the observance of conditions in the use of such portion for purposes of exercise and recreation as may be deemed by the Inclosure Commissioners to be necessary and expedient for the protection of such interests.

(5.) They shall determine the value of the owner's estate and interest in the whole of the Brent, or such part as may remain after the allotment, if any, to be made in commutation or satisfaction of such rights as aforesaid.

(6.) They shall give notice in writing to the clerk of the Local Board and to the town clerk of London of the amount at which they have valued the owner's estate and interest as aforesaid.

(7.) If within four months from the date of such notice the Local Board or the Corporation of London shall give notice to the Inclosure Commissioners of their intention to purchase, under the provisions herein-after contained, all of the Brent, or such portion as may not be allotted as aforesaid, the Commissioners shall, by their award, allot the same, together with the portion (if any) allotted as aforesaid for purposes of exercise and recreation, to such person or persons, body or bodies corporate, as the Local Board or the Corporation of London (as the case may be) may appoint and provide for the payment of the purchase money, and otherwise for the giving effect to such purchase, and for possession being given on payment of such purchase money, and for the use of the land so purchased as an open space for purposes of exercise and recreation for ever: Provided that the Local Board or Corporation of London shall be at liberty to limit such notice to a portion only of the Brent which may remain after such allotment as aforesaid, if any, such portion to adjoin the part, if any, so allotted, in which case, immediately upon the delivery of such notice to the Inclosure Commissioners, they shall determine the value of the owner's estate and interest in such portion of the Brent, and shall allot the same in the manner and subject to the provisions herein-before provided in the case of the notice being applicable to the whole of the

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Brent which shall remain unallotted by the Commissioners as aforesaid.

- (8.) If the Inclosure Commissioners receive no such notice as aforesaid they shall by their award vest any allotment made by them for purposes of exercise and recreation as aforesaid in the Local Board.
- (9.) They shall further hear, inquire into, and determine all or any questions which have arisen or which may arise as to the respective estates, rights, or interests of any persons whomsoever, including the said owner, in, to, over, or affecting the Brent, so far as may be material to the issue committed to them under this Act, but not further or otherwise.
- (10.) They shall have the power, if they think fit, of stating for the opinion of a court of law to be selected by them any question of law which may arise in the course of such inquiry.
- (11.) They shall, as the result of such inquiries as aforesaid, make all necessary orders touching the matters aforesaid, and for finally concluding and determining the same, and shall embody the same in their award.
- (12.) They shall impose and enforce the observance of all such conditions as they think fit to be observed as to the several foregoing matters upon the owner and upon the Local Board and the Corporation of London respectively, and upon all other persons and corporations whomsoever.
- (13.) They may, if they think fit, by any award, sanction and give effect to any agreement, arrangement, or compromise between the owner on the one hand and the Local Board and the Corporation of London, or either of them, on the other hand, in relation to any of the matters by this Act referred to them; and such award shall have the same effect as an award made by them after hearing and determination of the matters referred to them.

As to procedure before Inclosure Commissioners.

6. For the purposes of any such inquiry before the Inclosure Commissioners it shall be lawful for them—

- (A.) To require, by advertisement or by such other means as they shall think fit, that, within a time limited for that purpose, there be sent in to the Commissioners a statement or statements showing what rights are claimed by all or any persons or classes of persons in, over, or affecting the Brent or any part thereof, and the manner and extent in or to which it is alleged that such rights have been or are capable of being exercised, and in which the same will or may be affected by this Act.

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- (B.) The Commissioners may, after public notice duly given, hold a sitting or sittings in some convenient place in the neighbourhood of the Brent, and thereat may take and receive any evidence or information offered, and may inquire into any objection or suggestions made, with power from time to time to adjourn any sitting.
- (C.) Notice shall be published, in such manner as the Commissioners direct, of every such sitting (except an adjourned sitting fourteen days at least before the holding thereof).
- (D.) They shall, as to all proceedings under this Act, have full power, jurisdiction, and authority to require discovery from any party; to summon any person before them to give evidence or to bring and produce and give inspection of documents; to punish persons failing, neglecting, or refusing to make discovery or to produce deeds, evidences, or writings, or refusing to appear or be sworn or make affirmation or declaration, or guilty of contempt; to administer or direct the administration of oaths, and to take or direct the taking of affidavits and declarations, and to enforce all orders or directions made or given by the Commissioners under this Act in relation to the matters to be inquired into and done by or under their orders; and generally they may exercise all such powers, jurisdictions, and authorities as might be exercised by any court of law or equity, or any division of Her Majesty's High Court of Justice, if the matters coming before the Commissioners had come before such courts respectively.
- (E.) A note under the hands of the Commissioners shall have the force and effect of a subpoena or process issued by any court of law or equity or any division of the High Court of Justice; and every person who, being examined under the authority of this Act, shall wilfully swear, affirm, or declare falsely in any vivâ voce evidence, affidavit, declaration, or deposition shall be liable to the penalties and consequences of wilful and corrupt perjury.
- (F.) The award and all orders, notes, or other instruments made by or proceeding from the Commissioners shall be sufficiently authenticated if under the hand of one of the Commissioners, and the same may be in writing, or partly in writing and partly in print; and the award and all such orders, notes, or other instruments so authenticated shall be deemed to have been duly made or executed.

7. Within four months from the receipt of the notice hereinbefore directed to be given of the value, as ascertained by the

Provisions as
to purchase

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of owner's
estate in
Brent.

Inclosure Commissioners, of the owner's estate and interest in the Brent, the Local Board, and in their default the Corporation of London, may purchase the owner's estate and interest in the Brent, or, under the foregoing provisions in that behalf, in part thereof adjoining the land (if any) allotted as aforesaid, at the value to be determined as herein-before mentioned, to the intent that the land so purchased may be granted and conveyed to and held in mortmain by the body so purchasing, and used as an open space by the public for purposes of exercise and recreation for ever.

With regard to such purchase the following provisions shall be observed and have effect :

- (1.) The Local Board may declare their intention to purchase at any time within two months from the date of such notice.
- (2.) At the expiration of such two months the Corporation of London may declare their intention to purchase all or any part of the Brent not comprised within such declaration of the Local Board.
- (3.) Any such declaration as aforesaid shall be made in writing under the hand of the clerk to the Local Board or the town clerk of London (as the case may be), and shall be addressed to the Inclosure Commissioners, and served upon or sent through the post to them, and shall be binding upon all parties concerned.
- (4.) The Inclosure Commissioners shall immediately upon the receipt of such notice send a copy thereof to the town clerk of London or to the clerk to the Local Board (as the case may be), and to the solicitors or agent of the owner.
- (5.) Notwithstanding any other provisions herein contained, the Local Board and the Corporation of London may, at any time within the aforesaid period of four months, declare their intention of purchasing all or part of the said Brent, or of the portion remaining unallotted, if any allotment be made as aforesaid, jointly, upon such terms and conditions between themselves as they may agree upon, and the provisions hereinbefore contained with respect to a declaration of intention to purchase shall apply, as nearly as may be, to such declaration.

Commis-
sioners to
make and
deposit their
award.

8. The Commissioners shall, within eight months or such further time as they may prescribe in writing from the passing of this Act, make their award in writing as regards all the matters and things hereby by them directed to be done ; and such award, with the said map or plan (if made as aforesaid) annexed thereto, shall be executed in duplicate, and one part thereof shall be deposited at the office of the Land Revenue Records and Enrolments, and the other

part thereof shall be deposited with the clerk of the peace for the county of Kent, there to remain, and to be examined by all persons at all reasonable times, on payment of a fee of one shilling for each examination; and until the Commissioners have made their award any writing under their hands shall be sufficient evidence of any proceeding or decision under the provisions of this Act.

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9. When the award, with the map or plan (if made as aforesaid) annexed thereto, shall have been deposited as aforesaid, and when all such acts (if any) as are required by the award to be done have been done to the satisfaction of the Commissioners, the Brent, and every portion thereof, shall from the date of the said award be held by the persons or bodies corporate to whom the same is allotted, or by the owner, as the case may be, (but as to allotments, subject to the trusts, upon the conditions, and for the purposes upon and for which the same were made,) freed and discharged from all rights and interests, other than the rights and interests specified in the award, and all rights and interests theretofore claimed or existing in, over, or affecting the Brent, whether claimed by the public, or by the inhabitants of Dartford, or by the Local Board, or by any person or persons or corporation whatsoever other than those specified in the award, shall thenceforth be extinguished, and the owner shall be entitled to inclose and otherwise deal with such portion of the Brent as may be specified in the award as he may think fit.

Result of the award.

10. The award and all orders previously made by the Inclosure Commissioners shall from the date thereof respectively be effectual to all intents and purposes, and binding upon all corporations and persons whomsoever, and shall have the like effect as if the same had been enacted by Parliament.

Award to have effect of Act.

11. All expenses incurred by the Inclosure Commissioners in relation to the inquiry by this Act directed, or any proceedings consequent thereon, shall be defrayed by the owner and, subject as herein-after provided, by the Local Board and the Corporation of London, or either of them, as the Commissioners in their discretion shall direct; and the Commissioners may, if they think fit, require the owner to pay to the Commissioners such sum as the Commissioners think requisite for or on account of those expenses, or to give security to the Commissioners for the payment of those expenses on demand: Provided that no portion of such expenses shall be defrayed by the Local Board or by the Corporation of

For defraying expenses of inquiry, &c.

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Duties of owner under the award.

12. The owner shall do all such acts as the award shall direct, whether for quieting or confirming the title to any lands the subject of the award, or to any lands (if any) which may be allotted by the Commissioners in compensation in manner aforesaid, and he shall pay all such costs and expenses of the said inquiry and award, and incidental thereto, as the Commissioners shall determine ought properly to be discharged by him.

Byelaws as to Brent or any portion thereof purchased.

13. The Local Board or the Corporation of London, as the case may be, may from time to time make byelaws, and, when made, may alter, amend, or repeal such byelaws, as they may think fit for all or any of the following purposes with respect to the Brent, or any portion thereof purchased or allotted for purposes of exercise and recreation as aforesaid ; namely,

For preventing fires and nuisances and for the preservation of order on the Brent, or such portion thereof as aforesaid :

For excluding and removing therefrom gipsies, beggars, rogues and vagabonds, and any persons who may be intoxicated or who may commit any breach of any byelaw or regulation made under this Act or any public law :

For preventing or regulating bird-catching, bird-trapping, and taking of birds eggs or nests, and the shooting or chasing of game or other animals thereon :

For preventing or regulating the digging or taking thereon or therefrom of sods, bog-earth, gravel, clay, or other substances, or the cutting, felling, or injuring of timber or other trees, gorse, heather, shrubs, brushwood, or other plants growing thereon :

For preventing injury to, removing, or defacing of fences, barriers, or notice boards put up by the Local Board or Corporation of London (as the case may be) thereon, and the disfigurement of fences or trees by the posting or painting of bills, placards, or notices thereon or otherwise :

For preventing or regulating the placing or suffering to remain thereon of any rubbish, manure, or other substance :

For prescribing the times, places, and conditions at and under which particular sports and games may be carried on thereon, and for regulating or preventing assemblages of persons for purposes other than recreation or amusement :

For preventing the beating, shaking, or cleaning of carpets, or the exposing of clothes to dry :

Generally for preventing or restraining any improper use of the Brent, or any portion thereof allotted for the purposes aforesaid, or anything tending to the injury or disfigurement thereof : A.D. 1877.

For imposing penalties for breaches of the said byelaws, not exceeding for any one offence five pounds, and not exceeding for a continuing offence a further daily penalty of two pounds, so as every byelaw imposing a penalty be framed in such manner as to allow the infliction of less than the maximum penalty.

14. Byelaws of the Local Board shall be made by resolution of the said board, and byelaws of the Corporation of London shall be made by act of the Common Council of the said corporation. Byelaws made under this Act shall not have any force unless and until they are allowed by the President of the Local Government Board for the time being, who is hereby empowered to allow or disallow the same as he may think proper, nor shall any such byelaws be allowed unless notice of the intention to apply for allowance of the same has been published in one or more of the local newspapers circulating in the parish of Dartford one month at least before such application, and unless during one month at least before such application a copy of the byelaws to be submitted for allowance shall have been kept at the office of the Local Board or of the town clerk of London (as the case may be) open for inspection at all reasonable times by any persons desiring to inspect the same, who shall be allowed to inspect the same, and take copies thereof or extracts therefrom, free of charge. Making, &c.
of byelaws.

15. The Local Board or the Corporation of London (as the case may be) shall cause all their byelaws, when allowed, to be printed, with the form of allowance, and copies thereof to be posted up in conspicuous positions on the Brent, or the portion thereof allotted for the purposes of exercise and recreation as aforesaid, and printed copies of such byelaws to be sold, at a price not exceeding one shilling for each copy, to all persons desiring to buy the same. Byelaws to
be printed.

16. A printed copy of byelaws purporting to be made and allowed as aforesaid, authenticated by the signature of the clerk of the Local Board or the town clerk of London (as the case may be), shall be conclusive evidence of the existence and contents of such byelaws, and the due making and allowance thereof, without proof of such signature or of any other thing. Evidence of
byelaws.

17. Any expenditure which may be incurred by the owner in relation to the passing of this Act, or in carrying into effect the The defray-
ing expenses
of owner.

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The defray-
ing expenses
of Local
Board.

18. Any expenditure which may be incurred by the Local Board in carrying into effect the provisions and purposes of this Act, or in relation to any payments required by the Inclosure Commissioners, may be defrayed by the Local Board out of their general rate, or otherwise as the Local Board may deem expedient, and the amount requisite in that behalf shall be raised by means of such general rate or by a separate rate accordingly.

Act not to
confer rights.

19. Nothing in this Act contained shall be deemed to confer any estate, right, or title upon the said owner, or any other person or persons other or greater than he or they would have had if this Act had not been passed.

Expenses of
Act.

20. The costs, charges, and expenses attending or incident to the obtaining and passing of this Act (other than the costs of the inhabitants of Dartford and Jane Sankey as petitioners against the Bill, which shall be paid by the owner,) shall be paid by the owner

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and, subject as herein-after provided, by the Local Board and the Corporation of London, in such proportions as the Inclosure Commissioners shall direct: Provided that no portion of such costs, charges, and expenses shall be defrayed by the Local Board or by the Corporation of London unless some portion of the Brent is purchased by such board or corporation, as the case may be, under the provisions herein-before contained.

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