



CHAPTER xvi.

An Act to confirm the Provisional Order for the Regulation of the Commons, and the Provisional Order for the Inclosure of the Common Fields, situated in the parish of Totternhoe, in the county of Bedford, in pursuance of a Report of the Land Commissioners for England. A.D. 1886.

[4th June 1886.]

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

And whereas the said Regulation and Inclosure cannot be proceeded with without the previous authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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

2. This Act may be cited as the Regulation and Inclosure (Totternhoe) Provisional Orders Confirmation Act, 1886. Short title.

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SCHEDULE.

PROVISIONAL ORDER for the Regulation of the COMMONS in the Parish
of TOTTERNHOE.

WHEREAS persons interested in certain lands called or known as the Common Fields and Commons, situate in the parish of Totternhoe, in the county of Bedford, such lands being a common within the meaning of the Inclosure Acts, 1845 to 1878, have made application to the Land Commissioners for England to issue Provisional Orders for the regulation of part and the inclosure of part of such common, and to certify that it is expedient that such Provisional Orders should be confirmed by Parliament :

And whereas it has been made to appear to the said Commissioners that the persons making the said application represent at least one-third in value of such interests in the said common as are proposed to be affected by the Provisional Orders :

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 Land 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 village schoolroom in the said parish of Totternhoe, on the thirteenth day of January one thousand eight hundred and eighty-six, at half-past ten o'clock in the forenoon, and on the twentieth day of January one thousand eight hundred and eighty-six, at seven o'clock 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 Orders applied for, and into the nature of the provisions to be inserted in such Provisional Orders :

And whereas the said Assistant Commissioner inspected the said common, as required by the said Acts :

And whereas the said Assistant Commissioner duly reported in writing to the said Commissioners the result of the local inquiry and of the public meetings held by him, together with the information obtained by him as to the several particulars in the said application, and all other information required by the said Acts, and annexed to his report a sketch-map of the said common, a copy of which map is deposited in the office of the said Commissioners :

And whereas it is expedient that the boundaries, as proposed in the application, of the part to be regulated and the part to be inclosed of the said common shall be modified by the Provisional Orders, so as to include in the Provisional Order for regulation so much of the land included in the application for inclosure

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as is coloured dark green upon the said map, and also so as to include in the Provisional Order for regulation, as part of the cow common, the three pieces of common field land which are severed by and lie to the north of the London and North-Western Railway, and in the Provisional Order for inclosure, as part of the common field land, that portion of the cow common which is severed by and lies to the south of the said railway, together with so much of the cow common at its eastern end as with the said portion shall, in the judgment of the said Commissioners, be equal in value to the three pieces of common field land aforesaid : A.D. 1886.

And whereas the Right Honourable Adelbert Wellington Brownlow Cust Earl Brownlow, as lord of the manor of Totternhoe, is entitled to the soil of such parts of the Common as are coloured light green upon the said map :

Now, therefore, in pursuance of the powers given to us by the said Acts, we, the Land Commissioners for England, being satisfied that, having regard to the benefit of the neighbourhood as well as to private interests, the regulation of part of the said common is desirable, have framed, for the consideration of the persons interested, this our draft Provisional Order, specifying the provisions for "adjustment of rights" and for "improvement" which are to be put in force, and 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 part of the said common to be regulated be the tracts known as the Dunstable Downs, Whipsnade Heath (so far as the same lies within the said parish), the cow common (except as herein-after mentioned), and the Castle Hill, all of which are coloured light green on the map herein-before referred to, and also the several pieces of land, baulks, and driftways which are coloured dark green on the said map, and also, as part of the cow common, the three pieces of common field land which are severed by and lie to the north of the London and North-Western Railway, and are coloured yellow on the said map, in lieu of which that portion of the cow common which is severed by and lies to the south of the said railway, and is coloured pink on the said map, together with so much of the cow common at its eastern end as with the said portion shall, in the judgment of the said Commissioners, be equal in value to the three pieces of common field land aforesaid, shall be included in the Provisional Order for inclosure as part of the common field land.

That, for the "adjustment of rights," the following provisions be put in force ; that is to say, provisions for,—

As respects rights of common of pasture upon the part of the said common to be regulated, the determination of the persons by whom, the stock by which, and the times at which, such common of pasture is to be exercised ; and also, if it shall be found expedient, the determination of the places at which the persons entitled to such common of pasture shall respectively exercise their respective rights :

The determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil, or otherwise, should any such disputes be found to exist :

and such other of the provisions of the Commons Act, 1876, relating to adjustment of rights, as may be found applicable.

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That, for "improvement," the following provisions be put in force; that is to say, provisions for—

The draining, manuring, and levelling of such part of the said common as may be found necessary :

The planting of trees, whether for shelter or otherwise, or in any other way improving or adding to the beauty of such part of the said common :

The making of byelaws and regulations for the prevention of or protection from nuisances, or for keeping order on such part of the said common :

The general management of such part of the said common :

The appointment from time to time of conservators of such part of the said common, for the purposes aforesaid.

That the aforesaid provisions for adjustment of rights and for improvement shall apply to all that part of the said common which is to be regulated.

That, with a view to the benefit of the neighbourhood, the following provisions be made part of the terms and conditions of this Order, that is to say :—

That Totternhoe Castle, and the ancient earthworks connected therewith, and the five tumuli on the Dunstable Downs, be preserved and maintained in their present state :

That, so far as may be practicable, the ancient roads or tracks respectively known as "The Drovers' Way" and "The Icknield Way" be preserved in their present condition :

That there be reserved to the inhabitants of Totternhoe, and of the neighbouring towns and villages, and the public generally, at all times, a right of walking over all that part of the said common which is to be regulated, with the exception of the cow common, and that, in addition, there be reserved as aforesaid a right of playing games and enjoying other reasonable recreation on the Castle Hill and the surrounding land, on the Dunstable Downs, and on Whipsnade Heath aforesaid, subject to such byelaws and regulations as may from time to time be made by the conservators and confirmed by the Secretary of State :

That the Castle Yard or Camp be laid down in grass, and made suitable for cricket :

That the present rifle-range on the Dunstable Downs be continued for the use of the local rifle volunteer corps, or other body or persons at present entitled to use the same, and that convenient access thereto from the Icknield Way be afforded :

That such carriage-roads, bridle-roads, and footpaths be set out, to the satisfaction of the said Commissioners, as may be convenient for public use :

That there be reserved to the surveyors of highways of the parish of Totternhoe for the time being the exclusive right of digging and getting, and carrying away from or upon Whipsnade Heath aforesaid, flints for making and repairing the highways of the said parish, but not elsewhere or for sale, the said surveyors doing as little damage as possible to the surface, and leaving any pits or excavations made by them fit for sheep pasturage.

That the right of the said Earl Brownlow to get chalk and minerals from the said Dunstable Downs shall be confined to the present chalk pit now worked by him, and marked A. on the said map, and that the said chalk pit be not extended beyond the piece of land coloured light green and hatched on the said map,

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containing one acre and six perches. And that, for the prevention of accidents, the said chalk pit, including the said piece of land coloured light green and hatched, shall be securely fenced off by the conservators at the expense of the said Earl Brownlow, who, by consenting to this Provisional Order, undertakes to pay such expense, and to maintain such fences in good condition. A.D. 1886.

That one-sixteenth part in value of the rights of common of pasture over the part of the said common to be regulated be allotted, under the provisions of the said Acts, to the said Earl Brownlow, as lord of the said manor, in lieu of his right and interest in the soil of such part of the said common as is waste of the said manor, and (except as aforesaid) of all manorial rights in respect of his ownership of the soil, and the mines, minerals, and valuable strata in or under the same; but such allotment is to be without prejudice to any right of pasture or other right of common, or interest in the nature of a right of common which may have been usually enjoyed by such lord or his tenants upon such part of the said common, which said right of pasturage or other right, if any, is to be compensated for and determined under the provisions herein-before referred to for the adjustment and determination of rights of common of pasture.

That there may be raised by the conservators for the time being, or by such of them as are persons interested in the part of the said common to be regulated, such sums as the said Commissioners shall think fit, and by order from time to time under their seal, at the request of the conservators, direct, to be applied towards the improvement or protection of such part of the said common, and to be raised by means of rates to be levied upon the respective owners of the rights of common of pasture, according to the value of such rights as ascertained from the award, and to be recoverable by the conservators, or any officer appointed by them for the purpose, in such manner, as nearly as circumstances will permit, as if the same had been rates recoverable by a field-reeve appointed under the powers of the said Acts, or any of them.

That, for the purposes of giving complete effect to this Provisional Order, and to enable the conservators to carry out their duties in the most efficient manner, there shall be inserted in the award to be made in pursuance of the said Acts such provisions for the appointment of conservators, and filling up vacancies, and such other provisions not inconsistent with such Acts, as the said Commissioners shall think desirable and proper.

In witness whereof we have hereunto affixed our official seal this twenty-fifth day of February, one thousand eight hundred and eighty-six.

I.S.

PROVISIONAL ORDER for the Inclosure of the COMMON FIELDS in the Parish
of TOTTERNHOE.

WHEREAS persons interested in certain lands called or known as the common fields and commons, situate in the parish of Totternhoe, in the county of

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A.D. 1886. Bedford, such lands being a common within the meaning of "The Inclosure Acts, 1845 to 1878," have made application to the Land Commissioners for England to issue Provisional Orders for the inclosure of part and the regulation of part of such common, and to certify that it is expedient that such Provisional Orders should be confirmed by Parliament:

And whereas it has been made to appear to the said Commissioners that the persons making the said application represent at least one-third in value of such interests in the said common as are proposed to be affected by the Provisional Orders:

And whereas the said Commissioners, having taken the said application into consideration, were satisfied that a *prima 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 Land 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 village schoolroom in the said parish of Totternhoe, on the thirteenth day of January one thousand eight hundred and eighty-six, at half past ten o'clock in the forenoon, and on the twentieth day of January one thousand eight hundred and eighty-six, at seven o'clock 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 Orders applied for, and into the nature of the provisions to be inserted in such Provisional Orders:

And whereas the said Assistant Commissioner inspected the said common, as required by the said Acts:

And whereas the said Assistant Commissioner duly reported in writing to the said Commissioners the result of the local inquiry and of the public meetings held by him, together with the information obtained by him as to the several particulars in the said application, and all other information required by the said Acts, and annexed to his report a sketch-map of the said common, a copy of which map is deposited in the office of the said Commissioners:

And whereas it is expedient that the boundaries as proposed in the application of the part to be inclosed and the part to be regulated of the said common, shall be modified by the Provisional Orders, so as to include in the Provisional Order for regulation so much of the land included in the application for inclosure as is coloured dark green upon the said map, and also so as to include in the Provisional Order for regulation as part of the cow common, the three pieces of common field land which are severed by and lie to the north of the London and North-Western Railway, and in the Provisional Order for inclosure, as part of the common field land, that portion of the cow common which is severed by and lies to the south of the said railway, together with so much of the cow common at its eastern end as with the said portion shall, in the judgment of the said Commissioners, be equal in value to the three pieces of common field land aforesaid:

Now, therefore, in pursuance of the powers given to us by the said Acts, we, the Land Commissioners for England, being satisfied that, having regard to the

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benefit of the neighbourhood as well as to private interests, the inclosure of part of the said common is desirable, have framed for the consideration of the persons interested, this our draft Provisional Order, specifying the terms and conditions on which, provided the necessary consents are given thereto, we are prepared to certify that it is expedient the Provisional Order should be confirmed by Parliament; that is to say:—

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That the parts of the said common to be inclosed be those which are surrounded by an edging of red colour on the map herein-before referred to, including that portion of the cow common which is severed by and lies to the south of the London and North-Western Railway, and is coloured pink on the said map, and, in addition, so much of the cow common at its eastern end as with the said portion, shall, in the judgment of the said Commissioners, be equal in value to the three pieces of common field land which are severed by and lie to the north of the said railway, and are coloured yellow on the said map, and are included among the parts of the said common which are to be regulated.

That seven acres be allotted for recreation grounds as follows, that is to say:—

Six acres at Church End, at or near the spot marked B. on the said map; and one acre adjoining the village school, at or near the spot marked C. on the said map.

That twenty-five acres be allotted for field gardens as follows, that is to say:—

At Church End, at or near the spot marked D. on the said map, 14 acres;

At Lower End, at or near the spot marked E. on the said map, 11 acres;

or in such other suitable situations and quantities as the said Commissioners may approve of.

That a quarry and chalk pit, for the supply of materials for the use of the allottees under the inclosure upon their respective allotments, and on their old inclosed lands within the parish of Totternhoe, but not otherwise or for sale, be set out to the satisfaction of the said Commissioners.

That such carriage-roads, bridle-roads, and foot-paths be set out, to the satisfaction of the said Commissioners, as may be convenient for public use.

In witness whereof we have hereunto affixed our official seal this twenty-fifth day of February, one thousand eight hundred and eighty-six.

L.S.

