



CHAPTER xxxix.

An Act to confirm a Scheme under the Metropolitan Commons Acts, 1866 to 1878, relating to Broom Hill Common, Darrick Common, Gumping Common, and Sparrow Common, in the Parish of Orpington, Kent. A.D. 1893.
[9th June 1893.]

WHEREAS the Board of Agriculture have, in pursuance of the Metropolitan Commons Acts, 1866 to 1878, duly certified a scheme for the establishment of local management with respect to Broom Hill Common, Darrick Common, Gumping Common, and Sparrow Common, situate in the parish of Orpington, in the county of Kent:

29 & 30 Vict.
c. 122.
32 & 33 Vict.
c. 107.
41 & 42 Vict.
c. 71.

And whereas the said scheme is set forth in full in the report which was made by the said Board for the year ending the thirty-first day of December one thousand eight hundred and ninety-two, and which was duly laid before both Houses of Parliament:

And whereas by the said Metropolitan Commons Acts it is provided that any such scheme shall not of itself have any operation, but shall have full operation when and as confirmed by Act of Parliament, with such modifications, if any, as to Parliament seem fit:

And whereas it is expedient that the said scheme should be confirmed:

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 scheme for the establishment of local management with respect to Broom Hill Common, Darrick Common, Gumping Common, and Sparrow Common, situate in the parish of Orpington, Scheme in schedule confirmed.

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A.D. 1893. in the county of Kent, certified by the Board of Agriculture, under
-- their seal, on the thirty-first day of December one thousand eight
hundred and ninety-two, as amended by Parliament in the schedule
hereunto annexed, is hereby confirmed.

Short title. 2. This Act may be cited for all purposes as the Metropolitan
Commons (Orpington) Supplemental Act, 1893.

SCHEDULE.

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THE METROPOLITAN COMMONS ACTS, 1866 to 1878.SCHEME WITH RESPECT TO BROOM HILL COMMON, DARRICK
COMMON, GUMPING COMMON, AND SPARROW COMMON.

1. The pieces of land commonly called or known by the names of "Broom Hill Common," "Darrick Common," "Gumping Common," and "Sparrow Common" (herein-after collectively called "the Commons"), situate in the parish of Orpington, in the county of Kent, as the same are delineated in a plan deposited with the Board of Agriculture, shall henceforth, for all the purposes of this scheme, be regulated and managed by a body of Conservators. The Conservators shall be a body corporate, with perpetual succession, and shall have a common seal, and shall be styled "The Orpington Commons Conservators."

Description of
commons and
management by
Conservators.

2. The first Conservators shall be the following persons, namely,—the Reverend Mr. Trench, Benjamin Greene Lake, Henry Blunt Howard, Hilton Percy Barraud, Charles George Brown, Augustus Day, Robert Francis, Henry V. Hart Davis and William Sutton Simmonds. Three of the said first Conservators shall go out of office in the month of April next following the confirmation of this scheme by Act of Parliament, and three in the month of April in each of the two succeeding years.

First
Conservators.

3. At some meeting of the Conservators, held before the month of April next following the confirmation of this scheme by Act of Parliament, it shall be determined by lot which three of the said first Conservators shall go out of office in the said month of April, and which in the month of April in each of the two succeeding years.

Going out of
office.

4. The Conservators, other than the first, shall consist of nine persons to be elected by the vestry of the parish of Orpington. The term of office of the Conservators, except as aforesaid, shall be three years, and the three Conservators who have been longest in office without re-election shall go out each year.

Conservators
other than the
first.
Term of office.

5. An election of three Conservators in the place of those going out of office shall be made by the vestry of the said parish of Orpington at a meeting to be held in the month of April in every year.

Elections.

6. Any Conservator, after going out of office, resigning, or otherwise ceasing to be a Conservator, may be again elected a Conservator. Should any vacancy in the number of Conservators arise by death, resignation, or otherwise, between the times fixed for election, as aforesaid, or if at any

Vacancies.

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A.D. 1893. — time there shall not be a full number of Conservators, the Conservators for the time being shall continue to be as competent to act as if no such vacancy or deficiency in number had occurred. Provided that in the case of any vacancy occurring the vestry shall, as soon as conveniently may be, elect some proper person as a Conservator to supply such vacancy, but the person so elected shall retain his office so long only as the vacating Conservator would have retained the same if no vacancy had occurred.

No bankrupt, &c. to be a Conservator.

7. No bankrupt or person who has compounded with his creditors shall be capable of being or continuing a Conservator.

No Conservator to receive remuneration.

8. No Conservator shall receive any remuneration or hold any office of profit under this scheme.

Acts of the Conservators not to be invalidated.

9. Any act of the Conservators shall not be invalidated or be illegal by reason of there being any vacancy among the Conservators, or by reason of any person not qualified or ceasing to be qualified acting as a Conservator, or by reason of any irregularity, failure, or omission whatsoever in or about any election, or in or about any matter preliminary or incidental thereto.

Meetings of the Conservators.

10. The Conservators shall hold meetings for transacting business under this scheme twice at least in every year, and at such other times as may be necessary for properly executing their powers and duties under this scheme, and shall from time to time make regulations with respect to the summoning, notice, place, management, and adjournment of such meetings, and generally with respect to the transaction and management of business by the Conservators under this scheme. Provided always, that no business shall be transacted at any such meeting unless three Conservators at least are present thereat, and all questions shall be decided by a majority of votes, and the names of the Conservators present shall be recorded; and the Conservators shall annually appoint one of their number to be chairman for one year at all meetings at which he is present; and in case the chairman so appointed be absent from any meeting at the time appointed for holding the same, the Conservators present shall appoint one of their number to act as chairman thereat, and in case the chairman appointed as first aforesaid shall die, resign, or become incapable of acting, another Conservator shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and the chairman at any meeting shall have a second or casting vote in case of an equality of votes.

Offices and documents.

11. The Conservators may from time to time provide and maintain such offices as may be necessary for transacting their business and that of their officers and servants under this scheme. Documents or copies of documents purporting to proceed from the Conservators, and to be sealed or stamped with their seal, shall be received as *prima facie* evidence in all courts and places whatsoever.

Books to be kept.

12. The Conservators shall cause entries of all proceedings of the Conservators, and of every committee appointed by them, with the names

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of the Conservators who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the Conservators; and every such entry shall be signed by the chairman of the meeting subsequent to that at which the proceedings took place, and such entry so signed shall be received as evidence in all courts and before all judges, justices, and others without proof of such meeting having been duly convened and held, or of the persons attending such meeting having been or being Conservators or members of committees respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the Conservators.

13. The Conservators may from time to time appoint and employ a clerk, treasurer, common-keepers, collectors, and other officers and servants as may be necessary and proper for the preservation of order on, and the enforcement of byelaws with respect to, the commons, and otherwise for the purposes of this scheme, and may make rules for regulating the duties and conduct of the several officers and servants so appointed and employed (altering such rules as occasion may require); and the Conservators may pay, out of the moneys to be received under this scheme, to such officers and servants such reasonable wages, salaries, or allowance as they may think proper; and every such officer and servant shall be removable by the Conservators at their pleasure.

Appointment
of officers.

14. The Conservators may execute any works of drainage, raising, levelling, or fencing for the protection and improvement of the commons, so far only as may be required for the purposes of the Metropolitan Commons Acts, 1866 to 1878, and shall preserve the turf, shrubs, trees, plants, and grass, and for this purpose may enclose by fences, for short periods, such portions as may require rest to revive the same, and may plant for shelter or ornament, but shall do nothing that may otherwise vary or alter the natural features or aspect of the commons, or interfere with free access to every part thereof.

Protection and
improvement
of commons.

15. The Conservators shall maintain the commons, as delineated in the plan deposited with the Board of Agriculture, free of all encroachment, and shall not permit any trespass on, or partial or other enclosure of, any part thereof, and no fences, posts, rails, sheds or buildings, whether used in connexion with the playing of games or not, or other matters or things, shall be maintained, fixed, or erected thereon, without the consent in writing of the Conservators.

Against
enclosures.

16. The Conservators may set apart any portion or portions of the commons as they may consider expedient for games.

Games.

17. The Conservators shall frame byelaws and regulations for the prevention of nuisances and the preservation of order upon the commons. The byelaws may include all or any of the following purposes, namely:—

Byelaws to be
framed.

The prevention of encroachments and of the deposit of road-sand, materials for the repair of the roads, dung, rubbish, flints, wood, or other matter

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on, and of the illegal taking, cutting, digging, and selling the turf, sods, gravel, sand, or other substances from, the commons, and of the illegal cutting, felling or injuring the gorse, heather, timber, or other trees, shrubs, brushwood, or other plants for the time being growing thereon ;

The prevention of injury to, or the defacing or removing of, seats, fences, or barriers, or notice boards, or other things put up or maintained by the Conservators on the commons ;

The prevention of injury to, or disfigurement of, fences or trees on the commons, by the posting of bills, placards, or notices ;

The prevention of bird-catching, setting of traps or nets, or liming trees, or laying snares of any description, for birds or other animals, taking of birds' eggs or nests, and illegal shooting or chasing of game or other animals on the commons, or brought there for the purpose of being shot or chased ;

The regulation of games to be played and other means of recreation on the commons, and of assemblages of persons thereon ;

The prevention or regulation of vehicles being driven, or horses being exercised by grooms and others, on or across the commons ;

The exclusion, removal, and apprehension, if necessary, of gamblers, card-sharpers, gipsies, squatters, vagrants, sellers and exhibitors of infamous books, prints, photographs, or pictures, or persons guilty of brawling, fighting, or quarrelling, or using indecent and improper language, or any idle or disorderly persons, so that all such persons may be dealt with according to law ;

The regulation as to place and mode of digging and taking gravel, sand, or other substances from, and of cutting or felling of trees and underwood growing upon, the commons, in exercise of any right of common, or other right over or upon the commons ;

The prevention of unauthorised persons from turning out or knowingly permitting cattle, sheep, or other animals to graze or feed or remain upon the commons, and generally for the prevention or restraint of any act or thing tending to the injury or disfigurement of the commons, or to interfere with the use thereof by the public for the purposes of exercise and recreation.

Provided that all byelaws made by the Conservators shall be in writing under their seal, and the Conservators may, by such byelaws, impose upon offenders against the same such reasonable penalties, to be recovered on summary conviction, as they shall think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding the sum of forty shillings for each day on which the offence is continued after conviction therefor ; and the Conservators may alter or repeal any byelaws by other byelaws, sealed as aforesaid, and may make other byelaws as they may from time to time think fit. Provided always that all byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty. Provided always that no byelaws shall be repugnant to the laws of England or the provisions of this scheme, and no

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byelaws or any alteration or repeal of any byelaws shall be of any force or effect unless and until the same be confirmed by the Local Government Board. Provided that a copy of any byelaws signed and certified by the clerk of the Conservators to be a true copy and to have been duly confirmed shall be evidence until the contrary is proved in all legal proceedings of the due making, confirmation, and existence of such byelaws without further proof. Provided also that no byelaws shall be confirmed unless notice of intention to apply for confirmation thereof shall have been given in one or more of the London daily morning newspapers, and a newspaper circulating in the parish of Orpington, one calendar month at least before the making of such application, and for one calendar month at least before any such application a copy of the proposed byelaws shall be kept at the office of the Conservators, and be open during office hours thereat to the inspection of the ratepayers of the parish of Orpington, and other persons interested, without fee or reward, and the Conservators shall furnish every such person applying for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words contained in such copy.

18. All byelaws made by the Conservators in pursuance of this scheme shall be printed, and shall be sold to any person who may apply for the same at such price, not exceeding sixpence per copy, as the Conservators may determine; and all byelaws shall be legibly written or printed at length on boards of suitable size, and placed on such parts of the commons (not less than four) as to the Conservators may appear desirable.

Byelaws to be made public.

19. The Conservators shall be at liberty to receive and apply for the purposes of this scheme, or any of them, any subscriptions or donations applicable thereto that may come to their hands.

Subscriptions, &c.

20. The Conservators shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this scheme, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any of the Conservators and any ratepayer of the parish of Orpington without fee or reward, and the Conservators and ratepayers, or any of them, may take copies of, or extracts from, such books without paying anything for the same.

Accounts to be kept.

21. The Conservators shall cause their accounts to be balanced in each year to the thirty-first day of December, or to some other day to be fixed by them from time to time.

Accounts to be balanced yearly.

22. An auditor of the accounts, not being a Conservator, shall be from time to time appointed by the chairman of quarter sessions for the county of Kent, who shall fix his remuneration.

Accounts to be audited.

23. The auditor shall attend within one month after the day to which the accounts have been balanced at the office of the conservators, or at some other convenient place to be appointed by the Conservators, and from time to time shall, in the presence of the clerk of the Conservators, if he desire to be

As to audit of accounts.

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present, proceed to audit the accounts of the Conservators for the year preceding such day; and the Conservators shall, by their clerk or otherwise, produce and lay before the auditor the Conservators' accounts, accompanied with proper vouchers, and all books, papers, and writings in their custody or power relating thereto; and any person interested in the accounts, either as a creditor of the Conservators or otherwise, may be present at the audit of the accounts by himself or his agent, and may make any objection to any part of the accounts; and if the accounts be found correct, the auditor shall sign the same in token of his allowance thereof, but if the auditor thinks there is just cause to disapprove of any part of the accounts, he or any other person interested in the accounts may appeal against any parts of the accounts which shall be disapproved of to one of the two next quarter sessions for the county of Kent, notice in writing of such appeal being given to the clerk of the Conservators fourteen days at least before the hearing of such appeal.

Hearing of
appeal.

24. Upon the hearing of such appeal the Justices may make such order as they think fit respecting the payment of the costs of the appellant out of the moneys coming to the hands of the Conservators, or otherwise as they think fit, and such order shall be final.

Police.

25. For purposes of police the Commons shall be deemed a place of public resort, and the powers and duties of police constables, in relation to public safety and preservation of order and protection of property, shall extend thereto.

Apprehension
of offenders
against
byelaws.

26. Any constable, or any officer of the Conservators being in uniform or authorised by the Conservators in writing, which authority he shall produce on demand, and any person called by such constable or officer to his assistance, may, without any other warrant than this scheme, seize and detain any person offending or having offended against any byelaw of the Conservators whose name and residence shall be unknown to and cannot be ascertained by such constable or officer, and such constable or officer shall convey him, with all convenient dispatch, before a justice to be dealt with according to law.

Proceedings
against
offenders.

27. Proceedings with a view to the summary conviction of offenders under this scheme, or under any byelaws of the Conservators, or to the recovery of any money or expenses authorised to be recovered summarily, or to any other order to be made by justices under this scheme, or any such byelaw, shall be taken before a court of summary jurisdiction, according to the provisions of the Summary Jurisdiction Acts. Any pecuniary penalty, expenses, or costs, or other money recovered by the Conservators shall, notwithstanding anything in any other Act, be paid to the Conservators, and shall be applied by them for the purposes of this scheme.

An elector not
disabled from
acting as a
justice.

28. A person shall not be disabled from acting as a justice or otherwise in any matter arising under or in relation to this scheme by reason of his being an elector under this scheme.

Proceedings
not to be
vacated.

29. No proceeding to be had touching the conviction of any offender under this scheme, nor any order or other matter or thing whatsoever made, done

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or transacted in or relating to the execution of this scheme, shall be vacated, quashed, or set aside for want of form. A.D. 1893.

30. The Clauses of the Commissioners Clauses Act, 1847, with respect to contracts to be entered into and the deeds to be executed by commissioners, and with respect to giving notices and orders, proof of debts in bankruptcy, and tender of amends (as far as the same are applicable for the purposes of, and not inconsistent with, this scheme), are hereby incorporated with this scheme. Incorporation of Commissioners Clauses Act, 1847.

31. The Conservators may at any time apply for an amended or a new scheme. Power to apply for amended or new scheme.

32. Saving always to all persons and bodies, politic and corporate, and their respective heirs, successors, executors and administrators, all such estates, interests, or rights of a profitable or beneficial nature in, over, or affecting the commons, or any part thereof, as they or any of them had before the confirmation of this scheme by Act of Parliament, or could or might have enjoyed if this scheme had not been confirmed by Act of Parliament. Saving of rights.

33. The owners and occupiers of lands and tenements and the inhabitant householders in the parish of Orpington claim rights of common of pasturage and estovers and other rights over the commons. Rights claimed.

34. This scheme affects the estates, interests or rights in over and affecting the commons so claimed as aforesaid only so far as is absolutely necessary for the purposes of this scheme; that is to say, by conferring on the Conservators such powers of management, improvement, and control as hereinbefore provided; and for such purposes the power of taking, restricting, diminishing, or extinguishing any such estate, interest, or right, whenever it shall appear to the Conservators that the continuance of such estates, interests, or rights will interfere with the control, preservation, or improvement of the commons by the Conservators, or with any of the purposes of this scheme. So far as such estates, interests, or rights are of a profitable or beneficial nature, and are taken away or injuriously affected by this scheme, compensation in respect thereof shall be made by the Conservators to the bodies or persons entitled thereto. The amount of such compensation shall be settled by agreement, or, failing agreement, then under the provisions of the Lands Clauses Acts, so far as the same relate to the purchase and taking of lands otherwise than by agreement, including therein the several provisions relating to the compensation for common or waste lands, and thereupon the several provisions of such portion of the Lands Clauses Acts shall apply as if in all cases the word "lands" included interests, rights, and easements. How rights may be affected.

35. Certain of the owners and occupiers of lands and tenements and certain of the inhabitant householders in the parish of Orpington have consented, and others have not consented, to their rights being affected in the manner and to the extent herein expressed. Consents.

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Printed copies
of scheme.

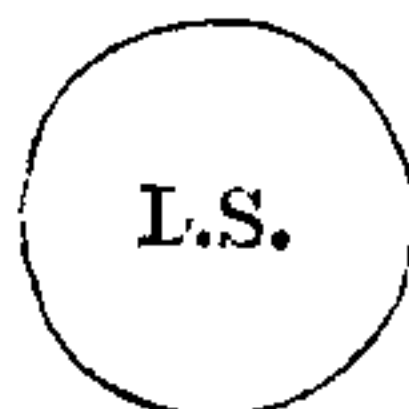
36. Printed copies of this scheme shall at all times be sold at the office of the Conservators to all persons desiring to buy the same, at a price not exceeding 6*d.* each.

Costs and
expenses.

37. The costs, charges, and expenses preliminary to, and of and incidental to the preparing, applying for, obtaining, and confirming of this scheme by Act of Parliament, and the expenses incurred by the Conservators in the carrying out of this scheme, including the payment of compensation (if any) as hereinbefore mentioned, may be paid by the Conservators out of any moneys coming to their hands under the provisions or for the purposes of this scheme.

The Board of Agriculture, pursuant to the Board of Agriculture Act, 1889, and the Metropolitan Commons Acts, 1866 to 1878, hereby certify the foregoing scheme.

In witness whereof they have hereunto set their Official Seal this thirty-first day of December, One thousand eight hundred and ninety-two:



T. H. ELLIOTT,
Secretary.

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