

**CHAPTER xxxiii.**

An Act to confirm a Scheme relating to Ham Common in the Parish of Ham in the County of Surrey. A.D. 1901.

[2nd July 1901.]

WHEREAS the Board of Agriculture have in pursuance of the Metropolitan Commons Acts 1866 to 1898 duly certified a scheme for the establishment of local management with respect to Ham Common situate in the parish of Ham in the county of Surrey : 29 & 30 Vict.
c. 122.
61 & 62 Vict.
c. 43.

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 nine hundred 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 King'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 Ham Common situate in the parish of Ham in the county of Surrey certified by the Board of Agriculture under their seal on the thirty-first day of December one thousand nine hundred in the terms set forth in the schedule hereto is hereby confirmed. Scheme in
schedule
confirmed.

2. This Act may be cited for all purposes as the Metropolitan Commons (Ham) Supplemental Act 1901. Short title.

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SCHEDULE.

BOARD OF AGRICULTURE.

THE METROPOLITAN COMMONS ACTS 1866 TO 1898.

SCHEME WITH RESPECT TO HAM COMMON.

Description of
common and
management
by Conserv-
ators.

1. The piece of land with the ponds roads and footpaths thereon of which a portion is claimed as freebord of Richmond Park commonly called or known by the name of Ham Common situate in the parish of Ham in the county of Surrey and herein-after referred to as "the common" as the same is delineated in a plan sealed by the Board of Agriculture (herein-after referred to as "the sealed plan") and thereon coloured green shall henceforth for all the purposes of this Scheme be regulated and managed by a body of Conservators to be styled "the Ham Common Conservators."

Conservators.

2. The Conservators shall consist of eight persons to be appointed in writing six by the Ham Urban District Council and two by the Lord of the Manor of Ham or other the person entitled to the soil of the common (all of whom are herein-after included in the expression "the Lord of the Manor") Provided that every Conservator appointed by the Council shall at the date of his appointment be a member of the Council.

First appoint-
ment of
Conservators.

3. The first appointment of Conservators shall be made within six weeks from the date of the confirmation of this Scheme by Act of Parliament or within such further time as the Board of Agriculture may allow.

Term of
office of
Conservators.

4. A Conservator appointed by the Lord of the Manor shall hold office until he dies or resigns or his appointment is determined by the Lord of the Manor and every Conservator appointed by the Council shall hold office until the expiration of the period for which he was appointed or until he dies or resigns or ceases to be a member of the Council Provided always that a Conservator appointed by the Council shall not continue in office for a longer period than three years without re-appointment but if qualified shall be eligible for re-appointment.

Vacancies.

5. Any vacancy occurring among the Conservators shall be filled up by the Council or the Lord of the Manor as the case may be within six weeks of such vacancy occurring or within such further time as the Board of Agriculture may allow.

6. No Conservator shall receive any remuneration or hold any office of profit under this Scheme.

No Conservator to receive remuneration.

7. An 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 appointment or in or about any matter preliminary or incidental thereto.

Acts of Conservators not to be invalidated.

8. 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. The time and place of holding the first meeting shall be fixed by the Board of Agriculture.

Meetings of Conservators.

9. 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. The Conservators shall be a body corporate with perpetual succession and shall have a common seal. Documents or copies of documents purporting to proceed from the Conservators and to be sealed or stamped with their seal shall be received as *primâ facie* evidence in all courts and places whatsoever.

Incorporation of Conservators.

10. The Conservators shall cause entries of all proceedings of the Conservators and of every committee appointed by them with the names 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 at which the proceedings took place or by the chairman of the next succeeding meeting and such entry so signed shall be received as evidence in every court and before all judges justices and others without proof of such meeting having been duly convened

Proceedings of Conservators.

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Appointment
of officers.

11. The Conservators may from time to time appoint and employ a clerk a treasurer common-keepers and such 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 common 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.

Protection and
improvement
of common.

12. The Conservators may execute any works of drainage raising levelling or fencing or other works for the protection and improvement of the common so far only as may be required for the purposes of the Metropolitan Commons Acts 1866 to 1898 and may do any work necessary for the proper cleansing of any ponds or the repair of any footpath on the common and shall preserve the turf shrubs trees plants and grass thereon and for this purpose may enclose by fences for short periods such portions as may require rest to revive the same and may plant trees and shrubs for shelter or ornament and may otherwise make the common more pleasant as a place for exercise or recreation but shall do nothing that may otherwise vary or alter the natural features or aspect of the common or interfere with free access to every part thereof.

Encroachments
and enclosure.

13. The Conservators shall maintain the common as delineated in the sealed plan free from all encroachments and shall not permit any trespass on or partial or other enclosure of any part thereof or any building to be erected thereon and no fences posts rails or sheds whether used in connexion with the playing of games or not or other matters or things shall be maintained fixed or erected thereon nor shall ice be taken off any pond on the common without the consent in writing of the Conservators Provided that the Conservators may erect and maintain or permit to be erected or maintained on the common seats shelters drinking fountains and conveniences at such places as the Conservators shall from time to time determine.

Games &c.

14. The Conservators may set apart such portion or portions of the common as they may consider expedient for games, and may form any cricket ground or grounds and may allow the same to be temporarily enclosed with posts and chains or other open fence so as to prevent cattle and horses straying thereon.

15. The Conservators shall frame byelaws for the prevention of nuisances and the preservation of order upon the common. The byelaws may include any of the following purposes viz. :—

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Byelaws.

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 on and of the illegal taking cutting or digging of turf sods gravel sand or other substances from or on the common and of the illegal cutting felling or injuring any gorse heather timber or other trees shrubs brushwood or other plants for the time being growing thereon and of the removal of ice from any pond 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 common ;

The prevention of injury to or disfigurement of fences or trees on the common by the posting or painting thereon of bills placards advertisements or notices ;

The prevention of bird-catching illegal 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 common 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 common and of assemblages of persons thereon ;

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

The exclusion and removal 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 or improper language or any idle or disorderly person ;

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

The filling up and fencing of any pits or excavations made in digging gravel sand or other substances from the common ;

The prevention of persons from illegally turning out or permitting cattle sheep or other animals to graze or feed or remain upon the common ;

Generally for the prevention or restraint of any act or thing tending to the injury or disfigurement of the common 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

A.D. 1901. 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 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 Ham 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 Ham 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.

Byelaws to be made public and sold.

16. 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 common (not less than four) as to the Conservators may appear desirable.

Subscriptions &c.

17. 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.

Accounts to be kept.

18. 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 of any ratepayer of the parish of Ham 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 balanced yearly.

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

20. 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 Surrey who shall fix his remuneration.

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Accounts to
be audited.

21. 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 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 Surrey notice in writing of such appeal being given to the clerk of the Conservators fourteen days at least before the hearing of such appeal.

Audit of
accounts.

Appeal.

22. 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.

Hearing of
appeal.

23. Any constable being either a member of the police force or an officer of the Conservators and being in uniform and any person called by such constable to his assistance may without warrant take into custody any person who within view of such constable shall offend against any byelaw of the Conservators and whose name and residence shall be unknown to and cannot be ascertained by such constable. If any such offender when required by the constable to give his name and residence gives a false name or a false residence he shall be liable on summary conviction to a penalty not exceeding five pounds.

Apprehension
of offenders
against bye-
laws.

24. 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.

Proceedings
against
offenders.

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Proceedings
not to be
quashed.

25. 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 or transacted in or relating to the execution of this Scheme shall be vacated quashed or set aside for want of form.

Incorporation
of Com-
missioners
Clauses Act
1847.

26. 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 debt 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.

Power to
apply for
amended or
new Scheme.

27. The Conservators may at any time apply for an amended or a new Scheme.

Saving of
rights.

28. 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 common 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 except only so far as any such estates interests or rights shall be purchased or acquired or otherwise compensated for by the Conservators whether by agreement or compulsorily.

Rights
claimed.

29. The Lord of the Manor of Ham claims the soil and freehold of and the minerals under the common except any part that is freehold of Richmond Park subject only to the rights of common of the copyhold tenants of the said manor entitled thereto in the common as waste of the said manor The freehold and copyhold tenants of the said manor and the owners and occupiers of other lands and tenements in the parish of Ham claim rights of common of pasture over the common The Corporation of Richmond as successors of the Petersham Highway Trustees claim the right to dig gravel for the repair of the highways in Petersham from the common This Scheme affects the estates interests or rights in over or affecting the common 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 herein-before 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 estate interest or right will interfere with the control preservation or improvement of the common 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 in case of difference be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase and taking or the injuriously affecting of lands under the provisions of the Lands Clauses Acts Provided always that in the event of any compensation

How rights
to be affected.

Compensation.

which may be agreed upon or awarded not being paid by the Conservators within six months after the date of such agreement or award nothing in this Scheme contained shall affect such estates interests or rights or shall prevent the enjoyment or exercise of the same estates interests or rights in respect of which compensation shall have been agreed upon or awarded as the owner or owners thereof would have been entitled to enjoy or exercise in case this Scheme had not been confirmed by Act of Parliament but without prejudice to the recovery from the Conservators by such owner or owners of any costs or damages which in the meantime he or they may have been put to or have sustained in relation to any such agreement or award or any such estate interest or right as aforesaid The Lord of the Manor assents to his rights being affected in the manner and to the extent herein expressed subject always and without prejudice to the right of the Lord or Lords of the Manor for the time being to the right of sporting and to the gravel sand mines and other minerals in and under the common and to the rights of the Lord or Lords of the Manor to get win and work the same which rights it is intended shall be exerciseable to the same extent and in the same manner to and in which they could have been exerciseable in case this Scheme had not been confirmed by Act of Parliament and subject also and without prejudice to the right of the said Lord or Lords in the event of any parts of the common being required by any railway company or other public company or body under any legislative compulsory powers or otherwise for the purposes of their undertaking to claim the same amount of purchase money or compensation for the same as he would have been entitled to claim in case this Scheme had not been made.

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Consent of
Lord of Manor.

30. Nothing contained in this Scheme shall take away prejudice or injuriously affect any estate interest right privilege or power vested in or exerciseable by or on behalf of the Crown and under the management of the Commissioners of Works in or over any part of the common being portion of the freebord of Richmond Park except with the consent and approval in writing of the said Commissioners and of the Treasury respectively.

Saving of
Crown rights.

31.—(a.) Upon the Conservators taking any proceedings under the provisions of the Lands Clauses Acts with respect to any estate interest or right of a profitable or beneficial nature in or over or affecting the common or any part thereof they shall if required give security to the owner or owners of such estate interest or right to the satisfaction of the Board of Agriculture for the costs to which he or they would be entitled under the same Acts.

Security for
costs.

(b.) Upon the Conservators commencing or being made defendants to any action in a court of law against or by the owner of any part of the common they shall if and when required give such security for costs as the court shall prescribe in the manner provided by the rules of such court for the time being in force.

32. 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 ninepence each.

Printed copies
of Scheme.

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Costs and
expenses.

33. 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 compensation costs or damages (if any) payable as herein-before 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 1898 hereby certify the foregoing Scheme.

In Witness whereof they have hereunto set their official seal this thirty-first day of December one thousand nine hundred.

L.S.

T. H. ELLIOTT
Secretary.

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