

## CHAPTER xlvii.

An Act to confirm a Scheme relating to Broom Hill Common and other Commons in the Parish of Orpington in the County of Kent. A.D. 1901.  
[2nd July 1901.]

**W**HEREAS the Board of Agriculture have in pursuance of the Metropolitan Commons Acts 1866 to 1898 duly certified a scheme amending the existing scheme for the establishment of local management with respect to Broom Hill Common and other commons situate in the parish of Orpington in the county of Kent: 29 & 30 Vict.  
c. 122.  
61 & 62 Vict.  
c. 43.

And whereas the said amending 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 amending scheme should be confirmed subject to certain modifications:

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 amending the existing scheme for the establishment of local management with respect to Broom Hill Common and other commons situate in the parish of Orpington in the county of Kent certified by the Board of Agriculture under their seal on the fifteenth day of November one thousand nine hundred shall be modified so as to be in the terms set forth in the schedule hereto and as so modified is hereby confirmed. Scheme in  
schedule  
confirmed.

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

A.D. 1901.

SCHEDULE.

THE METROPOLITAN COMMONS ACTS 1866 TO 1898.

AMENDED SCHEME with respect to BROOM HILL COMMON DARRICK COMMON  
GUMPING COMMON AND SPARROW COMMON.

Description of  
commons and  
management  
by Parish  
Council.

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 sealed by the Board of Agriculture shall henceforth for all the purposes of this Scheme be regulated and managed by the Parish Council of the said parish of Orpington herein-after referred to as "the Council."

Protection and  
improvement  
of commons.

2. The Council 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 1898 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.

Against  
encroachments.

3. The Council shall maintain the commons as delineated in the plan sealed by the Board of Agriculture free of all encroachment and shall not permit any trespass on or partial or other inclosure 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 Council.

Games.

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

Byelaws.

5. The Council 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 :—

~~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 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 Council 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 Council shall be in writing under the hands of the chairman and two other members of the Council and the Council 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 Council may alter or repeal any byelaws by other byelaws signed 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 Council to

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*Supplemental Act, 1901.*

A.D. 1901. — 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 Council 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 Council 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.

Publication of byelaws.

6. All byelaws made by the Council 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 Council 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 as to the Council may appear desirable.

Subscriptions &c.

7. The Council 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.

Police.

8. 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.

9. Any constable being either a member of the police force or an officer of the Council 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 Council 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.

Proceedings against offenders.

10. Proceedings with a view to the summary conviction of offenders under this Scheme or under any byelaws of the Council 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 Council shall notwithstanding anything in any other Act be paid to the Council and shall be applied by them for the purposes of this Scheme.

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11. 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. A.D. 1901.  
 Proceedings  
 not to be  
 quashed.

12. The Council may at any time apply for an amended or a new Scheme. Power to apply  
 for new Scheme.

13. 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.

14. 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.

15. 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 Council 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 estates interests or rights whenever it shall appear to the Council that the continuance of such estates interests or rights will interfere with the control preservation or improvement of the commons by the Council 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 Council 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.

16. 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.

17. Printed copies of this Scheme shall at all times be sold at the office of the Council to all persons desiring to buy the same at a price not exceeding sixpence each. Copies of  
 Scheme.

18. This amended Scheme shall come into operation on the date on which it shall be confirmed by Act of Parliament and on that date the Scheme confirmed by the Metropolitan Commons (Orpington) Supplemental Act 1893 Operation of  
 amended  
 Scheme.

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*Supplemental Act, 1901.*

A.D. 1901. (herein referred to as "the original Scheme") shall cease to operate subject to the following provisions:—

(a.) Nothing herein contained shall invalidate or make unlawful anything done under the original Scheme or affect any right title obligation or liability accrued thereunder before such date as aforesaid or interfere with the institution or prosecution of any proceeding in respect of any offence committed against or any penalty incurred under the original Scheme; and

(b.) All byelaws made under the original Scheme and in force at such date as aforesaid shall continue in force until altered or revoked by the Council and shall have effect as if they had been made by the Council under this amended Scheme.

Local Govern-  
ment Act 1894  
s. 67.

19. The provisions of section 67 of the Local Government Act 1894 shall apply in relation to any powers and duties transferred by this amended Scheme from the conservators of the commons under the original Scheme to the Council in the same manner as if such powers or duties were transferred by that Act.

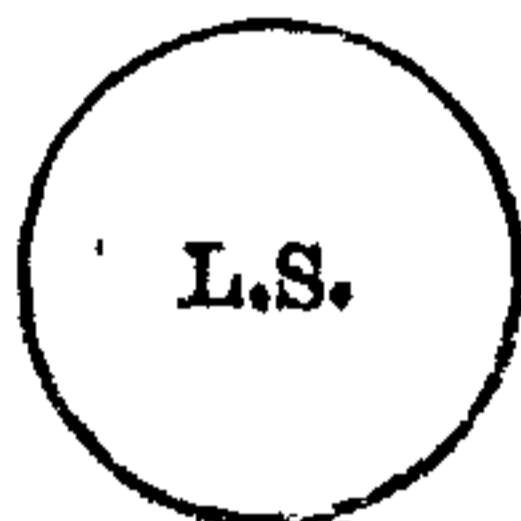
Costs and  
expenses.

20. The costs charges and expenses of the Council 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 Council in the carrying out of this Scheme including the payment of compensation (if any) as herein-before mentioned may be paid by the Council 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 fifteenth day of November one thousand nine hundred.

T. H. ELLIOTT  
Secretary.



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