



## CHAPTER clxxix.

An Act to confirm a Provisional Order under the Inclosure Acts 1845 to 1899 relating to Burrington Commons in the County of Somerset. A.D. 1911,  
[16th December 1911.]

**W**HEREAS the Board of Agriculture and Fisheries did in pursuance of the Inclosure Acts 1845 to 1899 issue in the year nineteen hundred and ten a Provisional Order for the regulation of Burrington Commons in the county of Somerset in the terms set forth in the schedule to this Act 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 in accordance with the report of a Committee of the House of Commons to which the Provisional Order was referred the said Board have modified the said Provisional Order by the amending Order set forth in the said schedule and by a special report certified that the said Provisional Order has been modified as aforesaid and that the requisite consents to such modification have been duly obtained :

And whereas the said Provisional Order as so modified has received the approval of the said Committee :

And whereas the said regulation cannot be proceeded with without the previous authority of Parliament :

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 Provisional Order of Regulation set forth in the schedule to this Act as modified by the said amending order is hereby confirmed. Order in  
schedule  
confirmed.

2. This Act may be cited as the Commons Regulation (Burrington) Provisional Order Confirmation Act 1911. Short title.

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SCHEDULE.

*Provisional Order for the Regulation of Burrington Commons.*

WHEREAS persons interested in certain lands called or known as Burrington Ham Blackdown and Langford Green in the parish of Burrington in the county of Somerset and Havyat Green which is partly in the tithing of Burrington in the parish of Wrington and partly in the said parish of Burrington in the same county (hereinafter referred to as "the commons") such lands being commons within the meaning of the Inclosure Acts 1845 to 1899 made application to the Board of Agriculture and Fisheries (hereinafter referred to as "the Board") to issue a Provisional Order for the regulation of the commons and to certify that it is expedient that such Provisional Order should be confirmed by Parliament:

And whereas it was made to appear to the Board that the persons making the said application represented at least one-third in value of such interests in the commons as are proposed to be affected by the Provisional Order:

And whereas the Board 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 officer of the Board:

And whereas the said officer having caused public notice to be given as required by the said Acts held pursuant to such notice public meetings in accordance with the requirements of the said Acts 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 Order applied for and into the nature of the provisions to be inserted in such Provisional Order:

And whereas the said officer inspected the commons as required by the said Acts:

And whereas the said officer duly reported in writing to the Board the result of the local inquiry and of the public meetings held by him together with all the information and other matters required by the said Acts:

And whereas the provisions of the said Acts have been in all respects complied with: A.D. 1911.

And whereas the Board have prepared and sealed a map showing the reputed boundaries of the commons which are thereon coloured green:

And whereas the commons are waste lands of the manor of Wrington and the Right Honourable William Henry Baron Winterstoke the lord of the said manor claims to be entitled as such lord to the soil of the commons and the mines and minerals thereunder and to the sporting rights thereover and the timber trees thereon subject as regards Burrington Ham and Blackdown aforesaid to certain rights of taking water and rights to the flow of water therefrom and certain easements in connexion with such rights:

And whereas the said Baron Winterstoke has undertaken to defray the expenses of and incidental to the regulation of the commons down to and including the preparation and confirmation of the first byelaws to be made under this Order after it shall have been confirmed by Parliament:

Now therefore the Board being satisfied that regard being had to the benefit of the neighbourhood as well as to private interests it is expedient to proceed further in the matter do by virtue of the powers in this behalf given to them by the Inclosure Acts 1845 to 1899 and the Board of Agriculture and Fisheries Acts 1889 and 1903 make this their Provisional Order as follows (that is to say):—

#### PART I.

##### ADJUSTMENT OF RIGHTS.

For the adjustment of rights in respect of the commons the following provisions shall be put in force:—

- (a) As respects rights of common of pasture the determination of the persons by whom the stock by which and the times at which such rights are to be exercised;
- (b) As respects any other rights of common which may be found to exist or taking of estovers or taking gravel or stone or sand or otherwise interfering with the soil of the commons the determination of the persons by whom and the mode and place or places in which and the times at which such rights are to be exercised and on compensation made to any person aggrieved either by grant of a right of equal value or with his consent in writing in money the restriction modification or abolition of all or any of such rights which may permanently injure the commons; and

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- (c) 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 whether arising between the commoners themselves or between the commoners in relation to the persons entitled to the soil of the commons or any part or parts thereof which settlement may be conducive to the interests of all or any class of persons interested in the commons.

## PART II.

## IMPROVEMENT.

For the improvement of the commons the following provisions shall be put in force:—

- (a) There shall be five Conservators of the commons to be appointed as follows (that is to say):—

One by the lord of the manor of Wrington one by the Burrington Parish Council and three persons being commoners by the persons for the time being entitled to exercise rights of common in or upon the commons:

- (b) And the Conservators shall have power—

- (1) To drain manure and level the commons where necessary for the purpose of improving the commons for pasturage or for purposes of recreation;

- (2) To make byelaws and regulations (subject to any such confirmation as is by law required) for—

(i) preventing nuisances on the commons or protecting them therefrom or for keeping order thereon;

(ii) preventing malicious or wanton injury to property therein or thereon;

(iii) regulating the exercise of any rights of common therein or thereon or of the rights reserved to the labouring poor as herein-after mentioned;

(iv) regulating the exercise of the privileges herein-after reserved of access recreation and playing of games on the commons; and

- (3) Generally to manage the commons.

## PART III.

## PROVISIONS FOR THE BENEFIT OF THE NEIGHBOURHOOD.

For the benefit of the neighbourhood—

- (a) There shall be reserved subject to such reasonable byelaws and regulations for the protection of the stock upon the

commons and for the prevention of damage to the pasturage and herbage thereof and the prevention of nuisances thereon as may be made by the Conservators and confirmed as by law required— A.D. 1911.

(1) A right of free access at all times to the commons and a privilege of recreation by walking and enjoying air and exercise thereon provided that no person while exercising such privilege shall be accompanied by a dog unless under control and that no person shall ride over or upon any part of the commons other than a carriage road or bridleway; and

(2) A privilege of playing games on such parts of the commons as may from time to time be appointed by the Conservators for the purpose and the Conservators may cause any part or parts for the time being so appointed to be temporarily inclosed with posts and chains or other open fences:

(b) Subject to the rights herein-after reserved of the lord of the manor of Wrington the Conservators shall so far as possible preserve the following trees and objects:—

(1) The timber trees upon Havyat Green;

(2) The ancient earthworks known as Burrington Camp the tumuli upon Blackdown known as the Beacon Batch and any other tumuli upon the commons;

(3) The caves known as Plumley's Den Aveline's Hole Goatchurch Cavern and Whitcombe Hole and the gorge known as Burrington Combe with the several caves therein and the rock known as "the Rock of Ages" Provided that nothing herein contained shall affect the right of the lord of the manor of Wrington to do all such things as he may think necessary or expedient for rendering the said caves or any other caves in or on the commons accessible to the public and developing them as places of public exhibition or of scientific interest:

(c) Quarries shall be set out to the satisfaction of the Board for the supply of stone and gravel for the repair of roads within the said parish of Burrington or tithing of Burrington and for the getting of stone and gravel by the persons entitled to rights of taking stone and gravel from the commons for use in or upon the tenements to which

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such rights are appendant or appurtenant but not otherwise or for sale:

(d) There shall be appropriated and set out in the award to be made under Part VI. of this Provisional Order a sufficient part or parts of the commons in such situation as to be conveniently accessible for the purpose of supplying fern and furze for the labouring poor being inhabitants of the said parish of Burrington and tithing of Burrington (other than persons entitled to rights of common) exclusively and the part or parts so set out shall be marked out in such manner as the Conservators think fit but shall not be inclosed. The said labouring poor of the said parish and tithing shall have the exclusive right to cut and take fern and furze from such part or parts appropriated as aforesaid for their own use on the lands or tenements in their own occupation but not for sale provided that this provision shall not affect any right of common of pasture exerciseable over the part or parts so appropriated. The Conservators may from time to time with the consent of the Board alter the situation of the part or parts to be appropriated as aforesaid after having given such notice of the intended alteration as the Board shall direct:

(e) The Conservators shall have power—

(1) To acquire by gift or purchase by agreement the fee simple or any estate in or any rights in or over the commons or any part thereof;

(2) To permit the use of the existing rifle range on Blackdown and the formation and use of ground suitable for cricket and games other than golf on Havyat Green subject respectively to proper regulations to be made by the Conservators for the protection of the commoners stock grazing upon the commons and the safety of persons resorting to the commons and to receive pecuniary consideration for such permission in each case;

Provided that all money received by the Conservators in respect of any such permission as aforesaid shall be expended by them in the improvement or protection of the commons and for no other purpose; and

(3) To set out make and maintain carriage roads bridle paths and footpaths over the commons in such directions as may appear to them most commodious.

## PART IV.

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## EXPENSES.

(a) The expenses of and incidental to the regulation of the commons down to and including the preparation and confirmation of the first byelaws to be made under this Provisional Order after it shall have been confirmed by Parliament shall be defrayed by the said Baron Winterstoke in accordance with his undertaking herein-before recited.

(b) The expenses incurred by the Conservators in the execution of their powers and duties except as to the preparation and confirmation of the first byelaws to be made under this Provisional Order the expenses of which shall be defrayed in the manner herein-before provided shall be defrayed as follows:—

(1) Out of voluntary contributions or (subject to the proviso herein-before contained) out of any moneys that may be received by the Conservators in respect of the use of the existing rifle range on Blackdown or the formation or use of ground for cricket and games other than golf on Havyat Green or otherwise in respect of the commons:

(2) So far as such expenses are not defrayed as aforesaid then by means of rates to be levied by the Conservators on the persons for the time being entitled to exercise rights of common in or over the commons according to the proportional sums at which the hereditaments in respect of which such rights are enjoyed shall be rated to the relief of the poor. Provided that no such rate shall exceed threepence in the pound in any one year without the consent of the majority in number of the persons entitled to exercise such rights of common as aforesaid present at a meeting to be called by the Conservators. And provided that the said rates shall be subject to approval by the Board and all or any of the provisions of the Inclosure Acts 1845 to 1899 for the recovery of rates shall apply to any rates levied under this clause.

## PART V.

## RESERVATION OF RIGHTS.

(a) This Provisional Order is (except as herein expressly provided) to be without prejudice to the rights of the lord of the manor of Wrington in or over the soil of the commons and his rights of sporting over the same and to the timber trees thereon and to plant trees thereon and his rights in the mines minerals and all other strata whatsoever thereunder and without prejudice to any rights of the

[Ch. clxxix.]                      *Commons Regulation*                      [1 & 2 GEO. 5.]  
(*Burrington*) *Provisional Order Confirmation Act, 1911.*

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Provided that if at any time it appears to the lord of the manor of Wrington and the Conservators or in the event of a difference of opinion between the lord and the Conservators to a person to be agreed upon by both parties and in default of such agreement to be nominated by the Board that the stock of rabbits on the commons is so excessive as to be prejudicial to the grazing or other common rights exerciseable in or over the commons the Conservators shall after notice in writing given to the lord of the manor of their intention to exercise the rights herein-after mentioned and after refusal or failure by the lord of the manor within three calendar months after the receipt by him of such notice to reduce or keep down the stock of rabbits have power to do all such things as may be reasonably necessary by usual and proper means to reduce the stock of rabbits and to keep down the same until such time as the lord of the manor shall do so:

Provided also that the lord of the manor shall not cut down for purposes of sale or otherwise any timber trees growing upon Havyat Green unless he shall have given to the Conservators at least one calendar month's notice in writing of his intention to do so and the Conservators shall thereupon have the option at any time before the expiration of such notice of purchasing the said trees at a price to be fixed by agreement or in default of such agreement by a person to be nominated by the Board.

(b) This Provisional Order is also to be without prejudice to any existing rights and obligations of the lord of the manor or any person deriving title under him or of the Bristol Waterworks Company or any other person or body with respect to a supply of water from Blackdown and Burrington Ham aforesaid or the flow of water therefrom or easements over or under the same commons in connexion with such supply or flow of water and particularly to such rights and obligations as are mentioned or referred to in the following indentures (namely):—

- (1) An indenture dated the twenty-fourth day of June one thousand nine hundred and nine and made between Manley Kingsmill Manley Power Graham Eden Shedden and Alfred Richard Cornelius Richings of the first part Louisa Haywood the Bristol Waterworks Company Edith Mary Harding and William Reeves of the second part Edmund Sidney Pollock Haynes of the third part and the said Baron Winterstoke of the fourth part;



- (2) An indenture dated the first day of July one thousand nine hundred and nine and made between the said Baron Winterstoke of the first part and the said parties of the second part to the said indenture of the twenty-fourth day of June one thousand nine hundred and nine of the second third fourth and fifth parts; and
- (3) An indenture dated the thirty-first day of December one thousand nine hundred and nine and made between the said Baron Winterstoke of the one part and the said Bristol Waterworks Company of the other part:

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Provided that subject to such existing rights and obligations as aforesaid no rights easements or privileges shall hereafter be granted or created by the lord of the manor of Wrington or other the owner or owners for the time being of the soil of the commons for the purpose of or as incidental to the supply of water on or from the commons except a supply for the use and benefit of persons residing within the said parish of Burrington.

#### PART VI.

#### AWARD.

For the purpose of giving complete effect to this Provisional Order there shall be inserted in the award to be made in pursuance of the Inclosure Acts 1845 to 1899 such provisions not inconsistent with those Acts as the Board shall think desirable and proper.

In witness whereof the Board of Agriculture and Fisheries have hereunto set their Official Seal this fourteenth day of December nineteen hundred and ten.

(L.S.)

(Signed)

W. E. ARCHER

Assistant Secretary.

WHEREAS after the foregoing Provisional Order had become final the Board of Agriculture and Fisheries did in a report dated the seventh day of March one thousand nine hundred and eleven duly certify that it was expedient that such Provisional Order should be confirmed by Parliament:

And whereas the said report having been presented to Parliament was referred to a Committee of the House of Commons for consideration and the said Committee recommended that the said Provisional Order should not be confirmed by Parliament except subject to certain modifications:

[Ch. clxxix.]                      *Commons Regulation*                      [1 & 2 GEO. 5.]  
(*Burrington*) *Provisional Order Confirmation Act, 1911.*

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Now therefore the Board of Agriculture and Fisheries by virtue of the powers in this behalf vested in them by the Inclosure Acts 1845 to 1899 and the Board of Agriculture and Fisheries Acts 1889 and 1903 do hereby modify the said Provisional Order in accordance with the recommendation of the said Committee by declaring as follows (that is to say):—

- (1) That at the end of paragraph (a) of Part II. thereof the words “no person being entitled to more than one vote in such election of Conservators” be inserted.
- (2) That in paragraph (d) of Part III. thereof the words “and of the parish of Blagdon and such other parishes as the Conservators may decide” be inserted after the words “tithing of Burrington” that in the same paragraph the word “exclusively” be omitted that in the same paragraph the words “the said parishes” be substituted for the words “the said parish”.
- (3) That in paragraph (e) (2) of Part III. thereof the words “the use of the existing rifle range on Blackdown and” and the word “respectively” be omitted.
- (4) That in paragraph (b) (1) of Part IV. thereof the words “the use of the existing rifle range on Blackdown or” be omitted.
- (5) That in paragraph (a) of Part V. thereof the words “if any” be inserted after the word “rights” where it first occurs.

In witness whereof the Board of Agriculture and Fisheries have hereunto set their Official Seal this twenty-fourth day of May nineteen hundred and eleven.

(L.S.)                      (Signed)                      R. H. REW  
Assistant Secretary.

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