



CHAPTER clxxx.

An Act to confirm a Provisional Order under the Inclosure Acts 1845 to 1899 relating to Winton and Kaber Commons in the County of Westmorland and the North Riding of the County of York. A.D. 1911.

[16th December 1911.]

WHEREAS the Board of Agriculture and Fisheries did in pursuance of the Inclosure Acts 1845 to 1899 issue in the year nineteen hundred and nine a Provisional Order for the regulation of Winton and Kaber Commons in the county of Westmorland and the North Riding of the county of York 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

[Ch. clxxx.] *Commons Regulation (Winton and [1 & 2 GEO. 5.]
Kaber) Provisional Order Confirmation Act, 1911.*

A.D. 1911. Temporal and Commons in this present Parliament assembled
— and by the authority of the same as follows:—

Order in
schedule
confirmed.

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

Short title.

2. This Act may be cited as the Commons Regulation
(Winton and Kaber) Provisional Order Confirmation Act 1911.

[1 & 2 GEO. 5.] *Commons Regulation (Winton and Kaber) Provisional Order Confirmation Act, 1911.* [Ch. clxxx.]

SCHEDULE.

A.D. 1911.

Provisional Order for the Regulation of Winton and Kaber Commons.

WHEREAS persons interested in certain lands called or known as Winton Fell Kaber Fell Kaber Rigg Kaber Green Winton Cow Close Winton Longrigg Hunger Rigg Winton Green and Fell Lane (herein-after referred to as "the commons") situate in the parishes of Winton Kaber and Hartley in the county of Westmorland and the parish of Muker in the North Riding of the county of York such lands being commons within the meaning of the Inclosure Acts 1845 to 1899 made application to the Board of Agriculture and Fisheries (herein-after 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:

[Ch. clxxx.] *Commons Regulation (Winton and Kaber) Provisional Order Confirmation Act, 1911.* [1 & 2 GEO. 5.]

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And whereas the provisions of the said Acts have been in all respects complied with :

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

And whereas the commons (except Winton Cow Close and Winton Longrigg) are waste lands of the lordships or manors of Winton and Kaber (otherwise known as South Stainmore) within the manor paramount of Brough and the Right Honourable Henry James Baron Hothfield the lord of all the said manors claims to be entitled as such lord to the soil of the commons (except as aforesaid) :

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 rights of common of turbary or taking of estovers or taking stone 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 :
- (c) As respects rights of common in the lands known as Winton Cow Close and Winton Longrigg the stinting or other determination of such rights and the persons by whom and the mode in which and the times at which such rights are to be exercised as also 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 be

[1 & 2 GEO. 5.] *Commons Regulation (Winton and Kaber) Provisional Order Confirmation Act, 1911.* [Ch. clxxx.]

injurious to the general body of the commoners or to the proper cultivation of the land: A.D. 1911.

- (d) The determination of any rights and settlement of any disputes relating to boundaries rights in the soil or otherwise whether arising between the commoners themselves or between the commoners in relation to the person 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:—

There shall be seven conservators of the commons to be appointed as follows (that is to say) One by the lord of the manor of Brough one by the Winton Parish Meeting one by the Kaber Parish Meeting and four by the persons for the time being entitled to exercise rights of common in or upon the commons:

And the Conservators shall have power—

- (1) To drain manure and level the commons where necessary for the purpose of improving the commons for the pasturage of cattle and sheep or the purposes of recreation;
- (2) To plant trees on parts of the commons whether for shelter or otherwise or in any other way to improve or add to the beauty of the commons;
- (3) To maintain and improve for the purposes of recreation and playing of games the portions of the commons which are known respectively as Kaber Green and Hunger Rigg and are coloured red on the said map;
- (4) To make byelaws and regulations (subject to any such confirmation as is by law required) for—
 - (a) preventing nuisances on the commons or protecting them therefrom or for keeping order thereon;
 - (b) preventing malicious or wanton injury to property therein or thereon;
 - (c) regulating the exercise of the rights of common to be determined in pursuance of the provisions in that behalf herein-before contained;
 - (d) regulating the exercise of the privileges hereinafter reserved of recreation and playing of games on the commons; and

- (5) Generally to manage the commons.

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PART III.

PROVISIONS FOR THE BENEFIT OF THE NEIGHBOURHOOD.

For the benefit of the neighbourhood—

- (a) There shall be reserved (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 and (2) a privilege of playing games on such parts of the commons as may be appointed by the Conservators for the purpose and the Conservators may cause any part or parts for the time being appointed for the playing of games as aforesaid to be temporarily enclosed with posts and chains or other open fences for the protection of the surface from damage by cattle and horses but not so as to exclude sheep:
- (b) Quarries for the repair of roads within the said parishes of Winton and Kaber and for the use of the persons interested in the commons on their lands within the said lordships or manors of Winton and Kaber (otherwise known as South Stainmore) but not otherwise or for sale shall be set out to the satisfaction of the Board.

PART IV.

EXPENSES.

(a) The expenses of and incidental to the regulation of the commons may be raised by means of a rate or rates to be levied by the valuer on the persons entitled to rights of common in or upon the commons in proportion to the value of their respective rights as determined under the provisions in that behalf herein-before contained or by the sale in manner provided by the said Inclosure Acts of a part or parts of the portion of the commons hatched green on the said map or by both such means. Provided that no more shall be sold than may be found necessary but no purchaser shall be bound to ascertain that no more is sold than is necessary.

(b) The expenses incurred by the Conservators from time to time in the improvement or protection of the commons may be raised by means of rates to be levied by the Conservators upon the persons entitled to rights of common in or upon the commons or if the Board of Agriculture and Fisheries shall think fit and by order from time to time under their seal at the request of the Conservators direct by the sale by the Conservators of other part or parts of the said portion of the commons hatched green on the said map.

[1 & 2 GEO. 5.] *Commons Regulation (Winton and [Ch. clxxx.]
Kaber) Provisional Order Confirmation Act, 1911.*

(c) The said rates shall be subject to approval by the Board of Agriculture and Fisheries and all or any of the provisions of the said Inclosure Acts for the recovery of rates shall apply to any rates levied under this clause. A.D. 1911.

(d) Any land hereby authorised to be sold shall until sale remain open and form part of the regulated commons and be subject to the provisions of this Order.

PART V.

RESERVATION OF RIGHTS OF LORD OF MANOR.

This Provisional Order is to be without prejudice to the rights of the lord of the manor in the soil of the commons including the mines and minerals thereunder and his rights of sporting and fishing over or on the same and all such rights may be exercised in the same manner and to the same extent as if this Provisional Order had not been made.

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 said Inclosure Acts 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 twelfth day of May nineteen hundred and nine.

(L.S.)

(Signed)

R. H. REW

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 nineteen hundred and ten 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:

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A.D. 1911.

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 in paragraph (a) of Part III. of the said Provisional Order after the word “dog” the words “unless on leash” be inserted;
- (2) That in paragraph (b) of Part IV. of the said Provisional Order the words “or if the Board of Agriculture and Fisheries
“ shall think fit and by order from time to time under their
“ seal at the request of the Conservators direct by the sale
“ by the Conservators of other part or parts of the said
“ portion of the commons hatched green on the said map” be omitted;
- (3) That in Part V. of the said Provisional Order after the word “rights” where it first occurs the words “if any” be inserted.

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

(L.S.)

(Signed)

R. H. REW

Assistant Secretary.

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