



CHAPTER xviii.

An Act to confirm a Scheme under the Metropolitan Commons Act, 1866, and the Metropolitan Commons Amendment Act, 1869, relating to Brook Green, Eel Brook Common, Parson's Green, and another piece of waste land adjoining the King's Road. A.D. 1881.
[3rd June 1881.]

WHEREAS the Inclosure Commissioners for England and Wales have, in pursuance of the Metropolitan Commons Act, 1866, and the Metropolitan Commons Amendment Act, 1869, duly certified a scheme for the establishment of local management with respect to Brook Green, situate in the parish of Hammer-smith, in the county of Middlesex, Eel Brook Common, Parson's Green, and a narrow piece of waste land adjoining the King's Road, all in the parish of Fulham, also in the county of Middlesex : 29 & 30 Vict.
c. 122.
32 & 33 Vict.
c. 107.

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

And whereas by the said Metropolitan Commons Act, 1866, 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 :

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Scheme as to
Brook Green,
Eel Brook
Common,
Parson's
Green, &c.
certified by
Inclosure
Commis-
sioners con-
firmed.

1. The scheme for the establishment of local management with respect to Brook Green, situate in the parish of Hammersmith, in the county of Middlesex, and Eel Brook Common, Parson's Green, and a narrow piece of waste land adjoining the King's Road, all in the parish of Fulham, also in the county of Middlesex, certified by the Inclosure Commissioners for England and Wales, under their seal, on the sixteenth day of December one thousand eight hundred and eighty, and contained in the schedule hereunto annexed, is hereby confirmed, and from and after the passing of this Act shall be deemed to be a public general Act of Parliament, of the like force and effect as if the provisions of the same had been enacted in the body of this Act.

Short title.

2. This Act may be cited for all purposes as the *Metropolitan Commons Supplemental Act, 1881.*

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SCHEDULE.

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THE METROPOLITAN COMMONS ACTS, 1866 and 1869.

SCHEME with respect to BROOK GREEN, EEL BROOK COMMON, PARSON'S GREEN, and a narrow piece of waste land adjoining the King's Road.

WHEREAS an action, *Lammin v. Ecclesiastical Commissioners*, 1878, L., No. 106, has been commenced and is now pending in the Chancery Division of the High Court of Justice, by William Henry Lammin, John George Hall, Thomas Blake Ayshford, William Stevens, and Henry Walter Parry respectively, suing on behalf of themselves and all other the owners or occupiers of ancient messuages and of lands and tenements, whether of freehold or copyhold tenure, situate in Hammersmith and Fulham, within and held of the manor of Fulham, in the county of Middlesex (other than the defendants thereto) entitled to rights of common over certain commons or waste lands within the said manor of Fulham; and also respectively suing on behalf of themselves and all other the inhabitants of the parishes of Hammersmith and Fulham respectively, within the said manor of Fulham, entitled to customary rights of recreation over certain commons or waste lands within the said manor, and the Metropolitan Board of Works (herein-after referred to as the Board) as plaintiffs against the Ecclesiastical Commissioners for England, Alexander Forbes Tweedie and John Hoyes, as defendants claiming to establish such rights of common and customary rights of recreation respectively, and an injunction to prevent inclosure of the said commons or waste lands and other relief:

And whereas by the 22nd section of the Metropolitan District Railway Act, 1878, it was provided that the Metropolitan District Railway Company, in consideration of being allowed to take and use without payment so much of Eel Brook Common, being part of the commons or waste lands aforesaid, as might be required in making the railway (being the portion of land coloured red and yellow on the plan therein referred to), and before interfering with the said common, except as therein mentioned, should, as part of their works, acquire and lay into the said common in exchange so much of the lands in the parish of Fulham as were coloured blue upon the said plan; and that the land so given in exchange should for ever afterwards be deemed and held and used for all purposes as part of the said common:

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And whereas by an agreement bearing date the eighth day of July one thousand eight hundred and eighty, and made between the Ecclesiastical Commissioners for England (therein-after called or referred to as "the said Commissioners") of the first part, the said Alexander Forbes Tweedie and John Hoyes of the second part, the Board of the third part, and the said William Henry Lammin, John George Hall, Thomas Blake Ayshford, William Stevens, and Henry Walter Parry of the fourth part, after reciting as or to the effect herein-before recited; and also reciting that the said Alexander Forbes Tweedie and John Hoyes claimed an interest in a portion of the said waste lands under a grant from the said Commissioners, under which they had been admitted tenants of such portion on the Court Rolls of the said manor, and that they had agreed to concur in the agreement now in recital in consideration of the arrangement and stipulations therein contained, and of the payment therein-after agreed to be made with their concurrence; and also reciting that it had been agreed, subject as therein-after mentioned, to put an end to the said action and litigation upon the terms and in manner therein-after appearing, it was, by the agreement now in recital, agreed (among other clauses not necessary to be herein particularly set forth) as follows: that is to say, (1) The said Commissioners, as lords of the manor of Fulham aforesaid, and otherwise, according to their estate and interest, agreed to sell to the Board, and the Board thereby agreed to purchase from the said Commissioners at or for the sum of five thousand pounds (and subject as therein-after mentioned), all the rights, estate, and interest in fee simple, or otherwise, howsoever of the said Commissioners of and in the commons or unenclosed pieces of waste land of the manor of Fulham aforesaid, known as "Eel Brook Common," "Parsons Green," and "Brook Green," delineated in the map or plan annexed to that agreement and thereon coloured green, and including in Eel Brook Common the land which by the said recited Act was to be acquired by the said railway company and laid into the said common, but except and not including a portion of Brook Green aforesaid containing two roods thirteen perches, or thereabouts, marked A on the said map, which had been appropriated and agreed to be granted by the said Commissioners as a site for a new church, and subject as to the part of Eel Brook Common authorised by the said recited Act to be taken and used for the purposes of the said railway to the rights of the said railway company under the said recited Act; and the said Commissioners, as lords of the said manor, for the consideration aforesaid, agreed to sell to the Board all their estate and interest in fee simple, or otherwise, howsoever of them the said Commissioners, and the said Alexander Forbes Tweedie and John Hoyes agreed to sell and release to the Board all their estate, right, claim, and interest under the grant before referred to of and in such portion of the narrow piece of unenclosed waste land or common of the said manor situate by the side of the King's Road, and lying between Eel Brook Common and Parsons Green aforesaid, in the Agreement now in recital, more particularly delineated in the said map or plan as was therein coloured red, and which portion did not include the two strips of land running across the said last-mentioned piece of waste land, which strips respectively were forty feet wide, and were cross-hatched on the said plan, and were intended to be formed into and used as roads as therein-after

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mentioned, and for no other purpose. And that the said waste lands and commons should be conveyed subject to the following exceptions (that was to say), in the conveyance by the said Commissioners to the Board of all their estate and interest in the said commons or waste lands known as Brook Green, Eel Brook Common, and Parsons Green, the said piece of land marked A on the said map should not be included; and the piece of Eel Brock Common authorised to be taken and used by the railway company as aforesaid, should be subject to the rights of the said railway company under the said recited Act, and in the conveyance by the said Commissioners and the said Alexander Forbes Tweedie and John Hoyes to the Board, of their respective estates and interests in the said unenclosed piece of waste land by the side of the King's Road, the said two strips of land cross-hatched on the said map should not be included. (2.) The said Commissioners, with the approval of the Board, agreed to sell and convey all their estate and interest in the said two strips of land forty feet wide on the said waste land, which strips were cross-hatched on the said plan to the said Alexander Forbes Tweedie and John Hoyes at the price of eight hundred pounds; and the said Alexander Forbes Tweedie and John Hoyes agreed to purchase the same at that price, it being intended that the said Alexander Forbes Tweedie and John Hoyes should form, and they thereby agreed within twelve calendar months after the confirmation of the scheme therein-after referred to at their own expense to form, roads thereon, with all suitable drains, footpaths, and fences, and to maintain and repair the same until they should be adopted by the proper local authority on behalf of the public. (3.) The Board should use their best endeavours (with the support of the said Commissioners and the consent of the said Alexander Forbes Tweedie and John Hoyes,) to procure the preparation and settlement of a scheme by the Inclosure Commissioners under the Metropolitan Commons Act, 1866, for the establishment of local management with respect to so much of the said piece of waste land by the side of the King's Road, and of the said commons or waste lands known as Brook Green, Eel Brook Common, and Parsons Green, as was thereby agreed to be conveyed to the Board, and for carrying the agreement now in recital into effect, and to procure the sanction or confirmation of Parliament to such scheme; and such Scheme or Act sanctioning the same should contain all proper clauses and provisions for the dedication of the whole of the said commons or pieces of waste land except as aforesaid, and subject as therein mentioned to and for the use of the public as open spaces for ever, and unless and until the said sanction or confirmation by Parliament of such scheme, pursuant to the Metropolitan Commons Act, 1866, should be obtained, or authority be obtained by the Board by an Act of Parliament, empowering them to give effect to and carry out the agreement now in recital, no conveyance should be made in pursuance of such agreement, nor should the purchase money be payable until a scheme should have been confirmed or Act of Parliament obtained as therein-before provided. (4.) It was agreed that, from and after the date of the execution of the agreement now in recital, all proceedings in the said pending action should be stayed, and that no steps should be taken by any of the parties to such agreement, either to proceed with the said action or to apply to dismiss the said action for want of prosecution, but subject to the clauses and provisions next therein-after stated. (5.) If the

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And whereas by the 7th section of the Metropolitan District Railway Act, 1880, so much of Eel Brook Common, in the parish of Fulham, as was coloured red and yellow upon the plan referred to in the 22nd section of the Metropolitan District Railway Act, 1878, was thereby declared to be vested in the Company, and in fee simple, and it was enacted that the said piece of land coloured blue on the said plan, which had been given in exchange for the said portion of Eel Brook Common, should be deemed and held and used for all purposes as part of that common, and that if at any time thereafter any party should appear to be entitled to any estate, right, or interest, or charge affecting the said piece of land coloured blue, which the Company had failed or omitted to purchase or pay compensation for, the Company should purchase or pay compensation for the same in accordance with the provisions of the Lands Clauses Consolidation Act, 1845, with respect to interests in lands which had by mistake been omitted to be purchased, and should at their own costs

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indemnify and keep indemnified the Metropolitan Board of Works and the Ecclesiastical Commissioners for England and Wales, and each of them, against all costs, charges, and expenses incurred by them in consequence of any omission of the Company in acquiring absolutely the said piece of land and laying it into the common :

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And whereas the commons or waste lands herein-before described and by the said recited agreement of the eighth day of July one thousand eight hundred and eighty, agreed to be sold to the Board, are delineated in a plan deposited with the Inclosure Commissioners for England and Wales, and therein coloured green, red, and blue, the portions of the land so coloured green, which are cross-hatched on the said deposited plan, being the pieces of Eel Brook Common by the Metropolitan District Railway Act, 1878, authorised to be taken and used by the said railway company as aforesaid, and by the Metropolitan District Railway Act, 1880, now vested in such company, and the land coloured blue on the said deposited plan being the piece of land which has become part of the same common in substitution therefor as herein-before appears :

And whereas the plan lastly herein-before referred to is herein-after referred to as the deposited plan :

And whereas it is intended that the said Board shall carry into effect the said agreement of the eighth day of July one thousand eight hundred and eighty, and shall take a conveyance or conveyances to the Board of the said commons or waste lands and premises thereby agreed to be sold, and shall acquire all such estates, interests, and rights of a profitable or beneficial nature (including rights of common and other customary or commonable rights) in, over, or affecting the said commons or waste lands as they may think it expedient to acquire, making or providing compensation for the same (if necessary) as herein-after provided :

Now it is proposed and provided as follows :—

1. From and after the completion of the said purchase by the Board (of which completion a certificate signed by the Chairman of the Board and the Secretary of the Ecclesiastical Commissioners for the time being shall be conclusive evidence) the commons or waste lands delineated in the deposited plan and therein coloured green, red, and blue, other than and except such of the parts thereof, so coloured green and red, as are cross-hatched, and the part coloured green which is marked A (which commons or waste lands so coloured green, red, and blue, other than and except as aforesaid, are in this scheme referred to as “the commons,”) shall be and are hereby dedicated to and for the use and recreation of the public as open spaces for ever, and shall for the purposes of this scheme be regulated and managed by the Board.

2. The powers of the Board generally as to appointing or employing officers and servants and paying them under the general Acts applicable to the Board shall apply to all such persons as in the judgment of the Board 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 the Board may make rules for regulating the duties and conduct

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3. The Board may drain, plant, ornament, and improve the commons as may be necessary, and for the purpose of preserving the turf and grass may enclose by fences, for short periods, such portions as may require rest to revive the same. No house or other building shall be erected on the commons except such lodges or other buildings as may be necessary for the maintenance or management of the commons. The Board may from time to time erect on the commons such lodges and other buildings as may be necessary for the maintenance and management of the commons, and may form such paths and rides over the same as they may think desirable.

4. The Board shall frame byelaws and regulations for the prevention of nuisances and the preservation of order on the commons, and particularly for the exclusion and removal of gipsies, hawkers, beggars, rogues, and vagabonds, and for the protection of the commons, and of the walls, railings, fences, lamp-posts, trees, shrubs, plants, flowers, walks, seats, and other things thereon, and for the prevention of obstructions and encroachments on the commons, and for preventing the deposit of rubbish on and the illegal taking, cutting, felling, and sale of turf, sods, bog-earth, gravel, sand, loam, clay, gorse, furze, fern, brushwood, trees, and the like from the commons, and for preventing the posting of bills or placards, and the writing, stamping, cutting, printing, drawing, or marking in any manner of any word or character, or of any representation of any object on any wall, railing, fence, tree, lamp-post, walk, pavement, or seat, or elsewhere on the commons, and for the prevention of bird catching, bird trapping, and the robbing of birds' eggs or nests and generally for the prevention and restraint of acts and things tending to the injury and disfigurement of the commons, or to interference with the use thereof by the public for purposes of exercise and recreation, and for the prevention of shooting or chasing of game or other animals thereon, and the regulation of assemblages of persons thereon, including the regulation and, if and so far as may be thought desirable, the prevention of public meetings thereon for political or other purposes, and the prevention of the delivering thereon of public speeches, lectures, sermons, or addresses of any kind or description thereon, and for the regulation of sports and games played there, and for the regulation of the use of animals and carriages let out for hire thereon, and of the drivers of carriages, and of persons letting out for hire or using animals or carriages thereon, and for the prevention of vehicles being driven or horses being exercised or ridden by grooms or others on any part of the commons: Provided that all such byelaws made by the Board shall be in writing under their seal; and the Board may by any such byelaws impose upon offenders against the same such reasonable penalties as they shall think fit not exceeding the sum of five pounds for each offence, and, in case of a continuing offence, a further penalty not exceeding the sum of forty shillings for each day after written notice of the offence; and the Board may alter or repeal any such byelaws and may make any such other byelaws as may from time to time appear desirable: 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 such byelaws shall be repugnant to the laws of England or the provisions of this scheme, and that no such byelaws shall, as against any person entitled to any estate, interest, or right of a profitable or beneficial nature in, over, or affecting the commons which shall not be purchased or acquired by the Board under or for the purposes of this scheme, operate or be construed so as to take away or injuriously affect such estate, interest, or right; and no such byelaws shall be of any force or effect unless and until the same be submitted to and confirmed by Her Majesty's Secretary of State for the Home Department for the time being, who is hereby empowered to confirm or disallow the same either with or without any alterations, modifications, or additions as he may think proper: Provided that any certificate of confirmation purporting to be signed by the said Secretary of State for the time being shall be *prima facie* evidence of such confirmation in all courts and places whatsoever: Provided also, that no such byelaws other than alterations, modifications, or additions made by the said Secretary of State for the time being, shall be confirmed unless notice of intention to apply for confirmation of the same shall have been given in one or more of the London daily newspapers 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 Board and be open during office hours thereat to the inspection of any metropolitan ratepayer without fee or reward; and the Clerk of the Board shall furnish every such ratepayer who shall apply 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.

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5. All byelaws made by the Board in pursuance of this scheme shall be legibly written at length on boards of suitable size and placed on such parts of the commons (not less than four) as to the Board may appear desirable.

6. The Board may set apart any portion or portions of the commons as they may consider expedient for cricket or other games.

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

8. The purchase and other moneys which shall become payable under the said recited agreement of the eighth day of July one thousand eight hundred and eighty, and all other compensation which shall become payable under or by virtue of this scheme, and all expenses which have been already incurred by the Board in relation to this scheme and the memorial for a scheme, and all costs and expenses which shall hereafter be incurred by the Board in or about the execution of this scheme shall be contributed by the Board as expenses incurred in the execution of the Metropolis Management Acts.

9. Any penalty imposed by or under the authority of this scheme or any byelaw made under this scheme may be recovered, together with the costs of the proceedings, in such manner and with such remedies by distress or other-

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wise as are given in the Metropolis Management Act, 1855, and the Acts amending the same; but all proceedings for the recovery of a penalty incurred under the provisions of this scheme or any byelaw made under this scheme shall be had or taken by the Board, and, notwithstanding anything contained in any Act relating to the metropolitan police courts, the penalty recovered shall be paid to the Board and shall be applied for the purposes of this scheme.

10. No proceeding 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.

11. 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, except only so far as any such estates, interests, or rights are or shall be acquired by the Board under the agreement herein-before recited or shall be acquired by the Board by consent or by purchase, whether by agreement or compulsorily, or shall be taken away or injuriously affected under or in pursuance of any of the provisions herein-after contained.

12. The Ecclesiastical Commissioners for England, and the said Alexander Forbes Tweedie, and John Hoyes respectively, claim the estates, rights, and interests agreed to be sold by them as herein-before appears, and this scheme affects such estates, rights, and interests by conferring on the Board power to purchase or acquire the same in pursuance of the herein-before recited agreement. The Ecclesiastical Commissioners and the said Alexander Forbes Tweedie and John Hoyes consent to this scheme.

13. The owners and occupiers of ancient messuages, and of lands and tenements, whether of freehold or copyhold tenure, situate in Hammersmith and Fulham, within and held of the manor of Fulham, claim to be entitled to rights of common over the commons. Such claimants have not consented to this scheme, except so far as the said William Henry Lammin, John George Hall, Thomas Blake Ayshford, William Stevens, and Henry Walter Parry, who are some of such claimants have consented thereto by being parties to the said agreement of the eighth day of July, one thousand eight hundred and eighty, and except so far as such claimants are to be taken as having consented thereto by reason of the homage jury of the manor of Fulham having entered into such agreement as herein-after referred to. This scheme affects the rights of common herein-before mentioned, and all other rights (if any) of a profitable or beneficial nature, in, over, or affecting the commons not herein specifically mentioned, by conferring on the Board power to purchase the same, or any of them, compulsorily or by agreement, with a view to their absolute extinction, or otherwise to take away or injuriously affect the same rights or any of them.

14. The inhabitants and parishioners of the parishes of Hammersmith and Fulham, or some of them claim a customary right to use the commons for the enjoyment of the air, and for exercise, amusement, and recreation, and for cricket and all other lawful village sports, games, and pastimes. Such inhabitants and parishioners have not consented to this scheme, except so far as the said William Henry Lammin, John George Hall, Thomas Blake Ayshford, William Stevens, and Henry Walter Parry, who are some of such inhabitants and parishioners, have consented thereto, by being parties to the said agreement of the eighth day of July, one thousand eight hundred and eighty. This scheme affects such right (if existing) by empowering the Board to prevent the future exercise thereof, otherwise than subject to the provisions of this scheme, and the byelaws and regulations which may be made by the Board in pursuance thereof.

15. The Board shall (unless otherwise agreed, between the Board and the person or persons entitled thereto,) make compensation for all estates, interests, and rights of a profitable or beneficial nature, in, over, or affecting the commons, which shall be taken away or injuriously affected under the powers of this scheme, and such compensation (except where otherwise provided), shall, in case of difference, be ascertained and provided in the same manner as if the same were for the compulsory purchase and taking, or the injurious affecting of lands under the provisions of the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860.

16. The compensation to be made by the Board for all the rights of common in, over, or affecting the commons, shall be the sum of two thousand pounds, that sum having been agreed upon between the homage jury of the manor of Fulham, for and on behalf of, and as representing all persons having rights of common over the commons and the Board, and such sum shall within three calendar months after the completion of the purchase under the herein-before recited agreement, be paid by the Board to the homage jury of the manor of Fulham, on behalf of the commoners of the said manor, and the receipt of the treasurers of the said homage jury for the time being shall be a discharge for the said sum and the same (less any costs and charges of the homage jury properly incurred in relation to the agreement for sale of the said rights of common to the Board or in relation to this scheme) shall be applied by such jury to charitable purposes within the manor of Fulham as they think fit, and upon such payment such rights shall become and be absolutely extinguished.

17. The Board shall have power to apply at any time for an amended scheme or for a new scheme.

18. Printed copies of this scheme shall at all times be sold at the office of the Board to all persons desiring to buy the same, at a price not exceeding two shillings and sixpence each.

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The Inclosure Commissioners for England and Wales, pursuant to the provisions of the Metropolitan Commons Acts, 1866 and 1869, hereby certify the above-written scheme.

In witness whereof they the said Inclosure Commissioners, have caused their official seal to be hereunto affixed, this 16th day of December, one thousand eight hundred and eighty.

L.S.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1881.