



CHAPTER lvii.

An Act to confirm the Provisional Order for the Regulation of Drumburgh Common and Moss, situate in the township of Drumburgh, in the parish of Bowness, in the county of Cumberland, in pursuance of a report of the Land Commissioners for England. [16th July 1885.] A.D. 1885.

WHEREAS the Land Commissioners for England did, in pursuance of the Inclosure Acts, 1845-1878, issue, in the year one thousand eight hundred and eighty-five, the Provisional Order of Regulation set forth in the Schedule hereto, 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 a Committee of the House of Commons, to which the same Provisional Order was referred, recommended that the same should be confirmed without modification:

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

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:

1. The Provisional Order of Regulation set forth in the Schedule to this Act is hereby confirmed. Confirmation of Provisional Order.

2. This Act may be cited as the Commons Regulation (Drumburgh) Provisional Order Confirmation Act, 1885. Short title.

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Provisional Order Confirmation Act, 1885.

A.D. 1885.

S C H E D U L E.

PROVISIONAL ORDER for the Regulation of a Common.

WHEREAS persons interested in certain lands called or known as Drumburgh Common and Moss, situate in the township of Drumburgh, in the parish of Bowness, in the county of Cumberland, such lands being a common within the meaning of "The Inclosure Acts, 1845 to 1878," have made application to the Land Commissioners for England to issue a Provisional Order for the regulation of such common, and to certify that it is expedient that such Provisional Order should be confirmed by Parliament:

And whereas it has been made to appear to the said Commissioners that the persons making the said application represent at least one-third in value of such interests in the said common as are proposed to be affected by the Provisional Order:

And whereas the said Commissioners, 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 Assistant Land Commissioner:

And whereas the said Assistant Commissioner, having caused public notice to be given as required by the said Acts, held, pursuant to the said notice, public meetings at the Lowther Castle Inn, in the said township, on the twenty-first and twenty-second days of July one thousand eight hundred and eighty-four, at the respective hours of half-past ten in the morning and seven in the evening, 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 Assistant Commissioner inspected the said common as required by the said Acts:

And whereas the said Assistant Commissioner duly reported in writing to the said Commissioners the result of the local inquiry and of the public meetings held by him, together with the information obtained by him as to the several particulars in the said application, and all other information required by the said Acts, and annexed to his report a sketch-map of the said common, a copy of which map is deposited in the office of the said Commissioners:

And whereas the Right Honourable James Lowther, as lord of the barony of Burgh and of the manor of Drumburgh, is entitled to the soil of the said common:

And whereas it is expedient that part of the said common should be allotted for the purposes of field gardens with a view to an exchange for three acres of old inclosed land, part of the field marked A. on the said map, which John Saul,

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of Drumburgh, the owner thereof, has expressed his willingness, and by his consent to this Order undertakes, to give in exchange : A.D. 1885.

Now, therefore, in pursuance of the powers given to us by the said Acts, we, the Land Commissioners for England, being satisfied that, having regard to the benefit of the neighbourhood as well as to private interests, the regulation of the said common is desirable, have framed, for the consideration of the persons interested, this our draft Provisional Order, specifying the provisions for the adjustment of rights and the improvement of the common which are to be put in force, and the terms and conditions on which, provided the necessary consents are given thereto, we are prepared to certify that it is expedient the Provisional Order should be confirmed by Parliament ; that is to say :—

That for the “adjustment of rights,” the provisions of the Commons Act, 1876; or such of them as may be found applicable, be put in force.

That for “improvement,” the provisions of the said Act, or such of them as may be found applicable, be put in force.

That, with a view to the benefit of the neighbourhood, the following provisions be made part of the terms and conditions of this Order, that is to say :—

That there be reserved to the inhabitants of the neighbourhood a right of free access to and of walking over and enjoying reasonable recreation upon the said common during the daytime, subject to such byelaws and regulations as may from time to time be made by the Conservators :

That so much of the said common as shall be equal in value to three acres of old inclosed land, part of the field marked A. on the said map, belonging to John Saul, be allotted for field gardens :

That the Conservators shall from time to time set apart such portion or portions of the common (not less than an area to be specified in the award) as they may deem suitable and sufficient for the purpose of supplying turf for fuel for the use of the inhabitants of the township (other than turbary-right owners, for whom provision shall be made in the award), and that there be reserved to such inhabitants as aforesaid a right to cut and take turf from and off such portion or portions for their own use for fuel, but not for sale, and subject to such byelaws for regulating the exercise of such right as may from time to time be made by the Conservators, who shall have power to make byelaws for such purpose :

That a hard road be made from the village of Drumburgh across the common in a westerly or south-westerly direction, and that, if found necessary, such other roads or paths be set out and made, to the satisfaction of the Land Commissioners, as may be convenient for public use.

That the valuer shall in his award specify and define a suitable part or suitable parts of the said common, not exceeding half an acre in the whole, to be used by the persons interested in the said common for the supply of clay and sand for making bricks and building purposes, the same to be used upon their respective tenements within the township, but not otherwise or for sale.

That one-sixteenth part in value of the rights of common of pasture over the said common be allotted, under the provisions of the said Acts, to the said James Lowther, as lord of the said barony and manor, in lieu of his right and interest in the soil of the said common so far as the same is affected by this Order, such allotment to be without prejudice to any right of pasturage, or other

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That the mines, minerals, stone, and other substrata under the said common be reserved to the lord of the barony and manor, together with a right to enter the said common for the purpose of opening, working, or winning such mines, minerals, stone, and other substrata: Provided always, that the person or persons exercising such right shall in the exercise thereof do as little damage to the surface of the common as reasonably may be, and shall not prejudicially affect any road or path to be set out as aforesaid, and shall pay compensation for any damage done thereby to any drain made, tree planted, or improvement executed under the powers aforesaid, such compensation to be paid to the Conservators for the time being, to be applied by them in improving the said common, and the Conservators for the time being shall have power to sue for, recover, receive, and give effectual receipts for such compensation, and to settle, with the person or persons liable to pay such compensation all questions relating thereto.

That there may be raised by the Conservators for the time being such sums as the said Land Commissioners shall think fit, and by order from time to time under their seal at the request of the Conservators direct, to be applied towards the improvement or protection of the said common, and to be raised by means of rates to be levied upon the respective owners of the rights of common of pasture according to the value of such rights as ascertained from the award, and to be recoverable by the Conservators, or any officer appointed by them for the purpose, in such manner, as nearly as circumstances will permit, as if the same had been rates recoverable by a field-reeve appointed under the powers of the said Acts or any of them.

That for the purpose of giving complete effect to this Provisional Order, and to enable the Conservators to carry out their duties in the most efficient manner, there shall be inserted in the award to be made in pursuance of the said Acts such provisions not inconsistent with such Acts as the said Land Commissioners shall think desirable and proper.

In witness whereof we have hereunto affixed our official seal this fifteenth day of January, in the year of our Lord one thousand eight hundred and eighty-five.

L.S.