



CHAPTER xiv.

An Act to confirm a Scheme under the Metropolitan Commons Act, 1866, and the Metropolitan Commons Amendment Act, 1869, relating to Chislehurst Common. A.D. 1886.

[4th June 1886.]

WHEREAS the Land Commissioners for England 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 Chislehurst Common, situate in the county of Kent:

And whereas the said scheme is set forth in full in the report which was made by the said Commissioners for the year ending the thirty-first day of December one thousand eight hundred and eighty-five, and which 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, subject to certain modifications:

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 scheme for the establishment of local management with respect to Chislehurst Common, situate in the county of Kent, certified by the Land Commissioners for England under their seal on the thirty-first day of December one thousand eight hundred and eighty-five, shall be modified so as to be in the terms specified in the schedule to this Act, and so modified shall be hereby confirmed:

Scheme as to
Chislehurst
Common
confirmed.

2. This Act may be cited for all purposes as the Metropolitan Commons Supplemental Act, 1886. Short title.

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SCHEDULE.

Scheme with respect to Chislehurst Common.

1. The pieces of land, with the ponds thereon, commonly called or known by the names of Chislehurst Common and Scadbury Common, and including Place Green and Shepherd's Green (herein-after called "The Commons"), situate in the parish of Chislehurst, in the county of Kent, as the same are delineated in a plan deposited with the Land Commissioners for England, shall henceforth, for all the purposes of this Scheme, be regulated and managed by a body of Conservators.

2. The first Conservators shall be one person to be appointed in writing by the lord of the manor of Chislehurst and Scadbury, and the following persons, namely: the Reverend Francis Henry Murray, Alexander Travers Hawes, Nettleton Balme, Thomas Charrington, Edward Lonsdale Beckwith, David James Chattell, Richard Biddulph Martin, Paul F. Tidman, and William Short Mahoney, all of Chislehurst, in the said county of Kent. Three of the said first Conservators (other than the one appointed by the lord of the manor) shall go out of office in the month of April next following the confirmation of this Scheme by Act of Parliament, and three in the month of April in each of the two succeeding years.

3. At some meeting of the Conservators held before the month of April next following the confirmation of this Scheme by Act of Parliament, it shall be determined by lot which three of the Conservators as aforesaid shall go out of office in the said month of April, and which three in the month of April in each of the two succeeding years.

4. The Conservators, other than the first, shall consist of the following persons, viz., one person to be appointed in writing by the lord for the time being of the manor of Chislehurst and Scadbury, and nine persons to be elected by the vestry of the parish of Chislehurst. The term of office of the Conservators, except as aforesaid, shall be three years, and the three Conservators who have been longest in office without re-election shall go out each year.

5. An election of three Conservators in the place of those going out of office shall be made by the vestry of the said parish of Chislehurst at a meeting to be held in the month of April in every year.

6. Any Conservator, after going out of office, resigning, or otherwise ceasing to be a Conservator, may be again elected a Conservator. In the event of any vacancy in the number of Conservators by death, resignation, or otherwise, between the times fixed for election, as aforesaid, or if at any time there shall not be a full number of Conservators, the Conservators for the time being shall continue to be as competent to act as if no such vacancy or deficiency in number had occurred: Provided that in the case of any such vacancy occurring, if the same shall relate to a Conservator appointed by the lord of the manor, such lord may appoint another Conservator in like manner, and if the said vacancy

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shall relate to an elected Conservator, the vestry of the said parish of Chislehurst shall, as soon as conveniently may be, elect some proper person as a Conservator to supply such vacancy, but the person so elected shall retain his office so long only as the vacating Conservator would have retained the same if no vacancy had occurred.

7. No bankrupt or insolvent, or person who has compounded with his creditors, shall be capable of being or continuing a Conservator.

8. No Conservator shall receive any remuneration or hold any office of profit under this Scheme.

9. Any act of the Conservators shall not be invalidated or be illegal by reason of there being any vacancy among the Conservators, or by reason of any person not qualified or ceasing to be, qualified acting as a Conservator, or by reason of any irregularity, failure, or omission whatsoever in or about any election or appointment, or in or about any matter preliminary or incidental thereto.

10. The Conservators shall hold meetings for transacting business under this Scheme twice at least in every year, and at such other times as may be necessary for properly executing their powers and duties under this Scheme, and shall from time to time make regulations with respect to the summoning, notice, place, management, and adjournment, of such meetings, and generally with respect to the transaction and management of business by such Conservators under this Scheme. Provided always, that no business shall be transacted at any such meeting unless three Conservators at least are present thereat, and all questions shall be decided by a majority of votes, and the names of the Conservators present shall be recorded; and the said Conservators shall annually appoint one of their number to be chairman for one year at all meetings at which he is present; and in case the chairman so appointed be absent from any meeting at the time appointed for holding the same, the Conservators present shall appoint one of their number to act as chairman thereat, and in case the chairman appointed as first aforesaid shall die, resign, or become incapable of acting, another Conservator shall be appointed to be chairman for the period during which the person so dying, resigning, or becoming incapable would have been entitled to continue in office, and the chairman at any meeting shall have a second or casting vote in case of an equality of votes.

11. The Conservators may from time to time provide and maintain such offices as may be necessary for transacting their business and that of their officers and servants under this Scheme, and shall cause to be made a seal for the use of the said Conservators under this Scheme, and documents or copies of documents purporting to proceed from the said Conservators, and to be sealed or stamped with such seal, shall be received as *prima facie* evidence in all courts and places whatsoever.

12. The Conservators shall cause entries of all proceedings of the Conservators, and of every committee appointed by them, with the names of the Conservators who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the Conservators: and every such entry shall be signed by the chairman of the meeting at which the proceedings took place, and such entry so

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13. The Conservators may from time to time appoint a fit and proper person, or fit and proper persons, to be their clerk and treasurer, and shall appoint or employ such common-keepers, collectors, and other officers and servants as 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 may make rules for regulating the duties and conduct of the several officers and servants so appointed and employed (altering such rules as occasion may require); and the Conservators may pay, out of the moneys to be received under this Scheme, to such officers and servants such reasonable wages, salaries, or allowance as they may think proper; and every such officer and servant shall be removable by the Conservators at their pleasure.

14. The Conservators 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 Act, 1866, and the Metropolitan Commons Amendment Act, 1869, and may do any work necessary for the proper cleansing of the ponds on the Commons, 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.

15. The Conservators shall maintain the Commons, as delineated in the plan deposited with the Land Commissioners, free of all encroachment, and shall not permit any trespass on, or partial or other enclosure 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, nor shall ice be taken off the ponds on the Commons, without the consent in writing of the Conservators.

16. For the prevention of nuisances and the preservation of order upon the Commons, the public roads and highways on or across the Commons shall be deemed to be part of the Commons. Save as aforesaid nothing herein contained shall be construed as placing any of the public roads or highways on, across, or adjoining the Commons under the care of the Conservators, or shall prevent the vestry of Chislehurst, or the legally constituted road authority, by their officers and servants, taking such portions of the Commons as they may require for the purpose of widening, with the consent of the Conservators, the said roads or highways to the width of 40 feet. The Conservators may set out or allow to be set out, made, and formed, new roads and footpaths over and across the Commons; but it shall not be lawful for the vestry or any other person or persons to set out, make, or form any such new roads or footpaths without the consent in writing of the Conservators.

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17. The Conservators may set apart any portion or portions of the Commons as they may consider expedient for games, and may form any cricket ground or grounds, and may allow the same to be temporarily enclosed with posts and chains or other open fence, so as to prevent cattle or horses straying thereon.

18. The piece of ground now enclosed with posts and rails situate in the south-west corner of Chislehurst Common, and marked "Cricket Ground" on the said map, having by grant and permission of the then lord of the manor of Chislehurst and Scadbury been made into a cricket ground in the year 1822 by and at the cost of the West Kent Cricket Club, and having by the like permission been ever since so maintained, the Conservators shall allow the West Kent Cricket Club to have the sole and exclusive management and control of the said piece of ground so long as the said club shall maintain the same in good order and condition. Provided that it shall be lawful for the Conservators to allow to other local cricket and football clubs for the time being the like reasonable enjoyment of the said ground as has hitherto been allowed when it is not required for matches by the said club, but so nevertheless that the said club shall have reasonable facilities for practice.

19. The Conservators 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, dung, rubbish, 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 growing thereon, and of the removal of ice from the said ponds;

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 Conservators 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 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;

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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 such byelaws made by the Conservators shall be in writing under their seal ; and the said Conservators 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 5*l.* for each offence ; and in the case of a continuing offence a further penalty not exceeding the sum of 40*s.* for each day after written notice of the offence ; and the said Conservators may alter or repeal any such byelaws by other byelaws, sealed as aforesaid, and may make such 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 such byelaws shall be repugnant to the laws of England or the provisions of this Scheme, and no such byelaws or any alteration or repeal of any such 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 such byelaws signed and certified by the clerk of the Conservators to 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 such 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 Chislehurst, 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 Conservators, and be open during office hours thereat to the inspection of the ratepayers of the said parish of Chislehurst, and other persons interested, without fee or reward, and the Conservators 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.

20. All byelaws made by the Conservators 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 one shilling per copy, as the Conservators may determine, and all such byelaws shall be legibly written or printed at length on boards of suitable size, and placed on such parts of the Commons (not less than four) as to the Conservators may appear desirable.

21. The Conservators 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.

22. The Conservators shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this Scheme, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any of the Conservators and any ratepayer of the said parish, without fee or reward, and the Conservators and

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ratepayers, or any of them, may take copies of, or extracts from, the said books without paying anything for the same. A.D. 1886.

23. The Conservators shall cause their accounts to be balanced in each year to the 31st day of December, or to some other day to be fixed by them from time to time.

24. An auditor of the said accounts, not being a Conservator, shall be from time to time appointed by the chairman of quarter sessions for the county of Kent, who shall fix his remuneration.

25. The said auditor shall attend within one month after the said day to which the accounts have been balanced at the office of the Conservators, or at some other convenient place to be appointed by the Conservators, and from time to time shall, in the presence of the clerk of the Conservators, if he desire to be present, proceed to audit the accounts of the Conservators for the year preceding such day: and the said Conservators shall by their clerk or otherwise, produce and lay before such auditor the Conservators' accounts, accompanied with proper vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto; and any person interested in the said accounts, either as a creditor of the said Conservators or otherwise, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such accounts; and if the said accounts be found correct, such auditor shall sign the same in token of his allowance thereof, but if such auditor thinks there is just cause to disapprove of any part of the said accounts he or any other person interested in the said accounts as aforesaid may appeal against any such parts of the said accounts as shall be disapproved of to one of the two next quarter sessions for the county of Kent, notice in writing of such appeal being given to the clerk of the Conservators fourteen days at the least before the hearing of such appeal.

26. Upon the hearing of such appeal the Justices may make such order as they think fit respecting the payment of the costs of the appellant out of the moneys coming to the hands of the Conservators, or otherwise, as they think fit, and such order shall be final.

27. 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.

28. Any constable, or any officer of the Conservators, and any person called by such constable or officer to his assistance, may, without any other warrant than this Scheme, seize and detain any person offending or having offended against any byelaw of the Conservators, who shall fail to satisfy such constable or officer as to his true name or address, and such constable or officer shall convey him, with all convenient despatch, before a justice to be dealt with according to law.

29. Proceedings with a view to the summary conviction of offenders under this Scheme or under any byelaws of the Conservators, 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

A.D. 1886. Summary Jurisdiction Acts. Any pecuniary penalty, expenses, or costs, or other money recovered by the Conservators shall, notwithstanding anything in any other Act, be paid to the Conservators, and shall be applied by them for the purposes of this Scheme.

30. A person shall not be disabled from acting as a justice or otherwise in any matter arising under or in relation to this Scheme by reason of his being an elector under this Scheme.

31. 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.

32. The clauses of the Commissioners Clauses Act, 1847, with respect to contracts to be entered into, and the deeds to be executed by Commissioners, and with respect to giving notices and orders, proof of debts in bankruptcy or insolvency, and tender of amends (as far as the same are applicable for the purposes of, and not inconsistent with, this Scheme,) are hereby incorporated with this Scheme.

33. The Conservators may at any time apply for an amended or a new Scheme.

34. Saving always (subject to clauses 14 to 19 of this Scheme) 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.

35. The lord of the manor of Chislehurst and Scadbury claims the soil and freehold of the Commons and the minerals under the same. The freehold tenants of the said manor and their tenants for the time being, and other persons, owners and occupiers of lands and tenements in the parish of Chislehurst, claim rights of common of pasturage and estovers, and other rights over the said Commons.

36. This Scheme affects the rights over 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 Conservators powers of management, improvement, and control as herein-before provided; and for such purposes the power of restricting, diminishing, or extinguishing such rights, or any of them, whenever it shall appear to the Conservators that the continuance of such rights will interfere with the control, preservation, or improvement of the Commons by the Conservators, or with any of the purposes of this Scheme, upon payment by the Conservators of compensation to the bodies or persons severally interested in such rights. The amount (if any) to be paid by the Conservators to such bodies or persons as and for compensation in respect of the restriction, diminution, or extinction of such rights shall be settled by agreement, or failing agreement, then under the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, 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 com-

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pensation for common or waste lands, and thereupon the several provisions of such portion of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall apply as if in all cases the word "lands" included interests, rights, and easements. A.D. 1886.

37. The lord of the said manor and certain of the freehold tenants of the said manor and of the other persons claiming rights consent to the Scheme, but subject and without prejudice to their right respectively to claim compensation in the event of any estate, interest, or right of a profitable or beneficial nature belonging to them respectively in, over, or affecting the Commons being taken away or prejudicially affected under the provisions of the Scheme. Certain other of the freehold tenants of the said manor and of the other persons claiming rights have not consented to the Scheme.

38. Printed copies of this Scheme shall at all times be sold at the office of the Conservators, to all persons desiring to buy the same, at a price not exceeding 6d. each.

39. The costs, charges, and expenses preliminary to, and of and incidental to the preparing, applying for, obtaining, and confirming of this Scheme by Act of Parliament, may be paid by the Conservators out of any moneys coming to their hands under the provisions or for the purposes of this Scheme.

The Land Commissioners for England, pursuant to the provisions of the Metropolitan Commons Acts, 1866 and 1869, hereby certify the foregoing Scheme.

In witness whereof they have hereunto affixed their Official Seal this thirty-first day of December, one thousand eight hundred and eighty-five.

L.S.

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