



CHAPTER xxix.

An Act to confirm an Amended Scheme under the Metropolitan Commons Acts 1866 to 1878 relating to Barnes Common in the Parish of Barnes Surrey.

A.D. 1898.

[23rd May 1898.]

WHEREAS the Board of Agriculture have in pursuance of the Metropolitan Commons Acts 1866 to 1878 duly certified an amended scheme for the establishment of local management with respect to Barnes Common situate in the parish of Barnes in the county of Surrey :

29 & 30 Vict.
c. 122.
32 & 33 Vict.
c. 107.
41 & 42 Vict.
c. 71.

And whereas the said amended scheme is set forth in full in the report which was made by the said Board for the year ending the thirty-first day of December one thousand eight hundred and ninety-seven and which was duly laid before both Houses of Parliament :

And whereas by the said Metropolitan Commons Acts it is provided that any such amended 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 amended 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 :—

1. The amended scheme for the establishment of local management with respect to Barnes Common situate in the parish of Barnes in the county of Surrey certified by the Board of Agriculture under their seal on the thirty-first day of December

Amended
scheme in
schedule
confirmed.

[Ch. xxix.] *Metropolitan Commons (Barnes)*
Supplemental Act, 1898.

[61 VICT.]

A.D. 1898. — one thousand eight hundred and ninety-seven and set forth in the
schedule hereto is hereby confirmed.

Short title. 2. This Act may be cited for all purposes as the Metropolitan
Commons (Barnes) Supplemental Act 1898.

A.D. 1898. with the institution or prosecution of any proceeding in respect of any offence committed against or any penalty incurred under the original scheme; and

(b.) All byelaws made under the original scheme and in force at such date as aforesaid shall continue in force until altered or revoked by the Council and shall have effect as if they had been made by the Council under this amended scheme.

Local Govern-
ment Act 1894
sec. 67.

23. The provisions of section 67 of the Local Government Act 1894 shall apply in relation to any powers and duties transferred by this amended scheme from the Conservators of the Common under the original scheme to the Council in the same manner as if such powers or duties were transferred by that Act.

Costs and
expenses.

24. The costs charges and expenses of the Council of and incidental to this scheme shall be contributed by the Council as expenses incurred in the execution of the Public Health Act 1875.

The Board of Agriculture pursuant to the Board of Agriculture Act 1889 and the Metropolitan Commons Acts 1866 to 1878 hereby certify the foregoing scheme.

In witness whereof they have hereunto set their official seal this thirty-first day of December one thousand eight hundred and ninety-seven.

(L.S.)

T. H. ELLIOTT.

Secretary.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

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EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
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18. The Council may at any time apply for an amended or a new scheme.

Council may
apply for new
scheme.

19. 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 Barnes Common 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.

Saving of
rights.

20. The lords of the manor of Barnes and the tenants of the manor claim rights in and over the common This scheme affects the rights over Barnes Common so claimed as aforesaid only so far as is absolutely necessary for the purposes contemplated by this scheme inasmuch as the improvement of the common and the prevention of nuisances thereon and other purposes of a like nature cannot be carried out without in some small degree interfering with such rights but such interference will be beneficial to such rights and the persons entitled thereto respectively and no such rights are taken away or injuriously affected by this scheme The lords of the manor consent and the tenants of the manor have not objected to their rights being affected in the manner and to the extent herein expressed but subject and without prejudice to the right of the lord or lords for the time being of the manor to the gravel mines and minerals in and under the common and to the right of the lord or lords of the manor to get win and work the same which rights it is intended shall be exercisable to the same extent and in the same manner to and in which they would have been exercisable in case this scheme had not been confirmed by Act of Parliament and so that in the event of any part of the common being required by any railway company or any other public or private company or body for the purposes of their undertaking the lord or lords of the manor shall be entitled to receive the same amount of purchase money or compensation money for the same as he or they would have been entitled to claim or receive in case this scheme had not been confirmed by Act of Parliament Provided always that this scheme shall not in any way affect the rights of the lord or lords for the time being of the manor over that portion of the common situate on the west side of the road leading from Vine Cottage to the railway.

Rights claimed
and how
affected.

21. Printed copies of this scheme shall at all times be sold at the office of the Council to all persons desiring to buy the same at a price not exceeding sixpence each.

Copies of
scheme.

22. This amended scheme shall come into operation on the date on which it shall be confirmed by Act of Parliament and on that date the scheme confirmed by the Metropolitan Commons Supplemental Act 1876 (herein referred to as "the original scheme") shall cease to operate subject to the following provisions:—

Operation of
amended
scheme.

(a.) Nothing herein contained shall invalidate or make unlawful anything done under the original scheme or affect any right title obligation or liability accrued thereunder before such date as aforesaid or interfere

A.D. 1898. — this scheme seize and detain any person offending or having offended against any byelaw of the Council 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.

Incorporation of Commissioners Clauses Act 1847. 12. Sections 105 106 and 108 of the Commissioners Clauses Act 1847 (so far as the same are applicable for the purposes of and not inconsistent with this scheme) are hereby incorporated with this scheme.

Proceedings against offenders. 13. Proceedings with a view to the summary conviction of offenders under this scheme or under any byelaws of the Council 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 byelaws shall be taken before a court of summary jurisdiction according to the provisions of the Summary Jurisdiction Acts.

Application of penalties. 14. When under this scheme or any byelaw of the Council any pecuniary penalty expenses or costs or other money is or are recovered by the Council the same shall notwithstanding anything in any other Act be paid to the Council and shall be applied by them for the purposes of this scheme.

Proceedings not to be quashed. 15. 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.

Power of Council to sue &c. 16. The Council may sue and be sued for or concerning any nuisance upon Barnes Common or for or concerning any contract matter or thing relating to any property vested or to become vested in them under this scheme or otherwise for or concerning any matter or thing whatsoever relating to the execution of their powers and authorities under this scheme and shall be deemed to have a sufficient possession of the said common to enable them to maintain an action for trespass with regard thereto and in all proceedings by or on the part of the Council against any person for stealing or wilfully injuring or otherwise improperly dealing with any property works or things belonging to them or under their management it shall be sufficient to state generally that the property or thing in respect of which the proceeding is instituted is their property.

For protection of officers of Council. 17. No matter or thing done or contract entered into by the Council nor any matter or thing done by any clerk common-keeper or other officer or person whomsoever acting under the direction of the Council shall if the matter or thing were done or the contract entered into bonâ fide for the purpose of executing this scheme subject them or any of them personally to any action liability claim or demand whatsoever and any expense incurred by the Council or any such clerk or common-keeper or other officer or person acting as last aforesaid shall be borne and paid out of the moneys in the hands of the Council for the purposes of this scheme.

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the Council may alter or repeal any such byelaws by other byelaws sealed as last 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 shall be of any force or effect unless and until the same be allowed by the Local Government Board who are hereby empowered to allow or disallow the same as they may think proper provided that a copy of any such byelaws signed and certified by a clerk of the Council 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 allowed unless notice of intention to apply for allowance thereof shall have been given in one or more of the London daily morning newspapers or a local newspaper 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 Council and be open during office hours thereat to the inspection of the ratepayers of the Barnes Urban District and other persons interested without fee or reward and the clerk of the Council shall furnish every such ratepayer 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.

7. The Council may set apart any portion or portions of the common as they may consider expedient for cricket football or other games and may form any ground or grounds for those purposes and may temporarily enclose the same with post and chain or other open fence so as to prevent cattle straying thereon.

Games &c.

8. All byelaws made by the Council 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 Council 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 common (not less than three) as to the Council may appear desirable.

Publication of
byelaws.

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

Subscriptions
&c.

10. If any person assaults or resists or aids or incites any person to assault or resist any constable or officer of the Council or other person in the exercise of his duty or the lawful execution of any authority under this scheme or under any byelaw of the Council he shall for every such offence be liable on summary conviction to a penalty not exceeding five pounds without prejudice to any other proceeding or remedy against him.

Assaults on
officers.

11. Any constable or any officer of the Council and all persons called by such constable or officer to his assistance may without any other warrant than

Apprehension
of offenders.

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Surplus
pasture.

5. The Council may (but subject and without prejudice to the rights of commoners) authorise persons to turn out on the common horses cattle and sheep for the purpose of feeding off any superfluous herbage in consideration of weekly or other payments to be made by such persons to the Council and to be applied by the Council for the purposes of this scheme.

Byelaws.

6. The Council shall frame byelaws and regulations for all or any of the following purposes namely:—

For the prevention of nuisances and the preservation of order on the common :

For the exclusion and removal therefrom of gipsies hawkers prostitutes beggars rogues and vagabonds gamblers card-sharpers sellers and exhibitors of infamous books prints photographs or pictures or persons guilty of brawling fighting or quarrelling or using indecent or improper language or any idle or disorderly person so that all such persons may be dealt with according to law :

For the prevention of bird-catching bird-trapping taking of birds' eggs or nests and shooting or chasing of game or other animals thereon :

For the prevention of unauthorised persons from turning out or knowingly permitting cattle sheep or other animals to graze or feed or remain thereon :

For the prevention of pound breach :

For the prevention of the illegal digging or taking thereon or therefrom of turf sods bog-earth gravel clay or other substances :

For the prevention of the illegal cutting felling burning or injuring thereon of gorse heather timber or other trees shrubs brushwood or other plants :

For the prevention of injury to or the defacing or removing of seats fences or barriers or notice boards or other things put up by the Council or any Conservators thereon :

For the prevention of injury to or disfigurement of fences or trees thereon or abutting thereon by the posting of bills placards or notices :

For the prevention of the placing thereon of any rubbish manure or other substance :

For the prevention or regulation of assemblages of persons thereon and of sports and games played thereon :

For the prevention or regulation of persons from passing over the common or any specified part thereof with vehicles or exercising horses thereon :

Generally for the prevention or restraint of any act or thing tending to the injury or disfigurement of the common or to interference with the use thereof by the public for purposes of exercise and recreation :

Provided that all such byelaws made by the Council shall be in writing under their seal and the Council may by any 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 five pounds for each offence and in the 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

SCHEDULE.

A.D. 1898.

THE METROPOLITAN COMMONS ACTS 1866 TO 1878.AMENDED SCHEME with respect to BARNES COMMON.

1. Barnes Common in the county of Surrey (which shall for all the purposes of this scheme be deemed to consist of the several tracts of waste land delineated in a plan deposited with the Board of Agriculture and therein coloured green) shall henceforth for all the purposes of this scheme be regulated and managed by the Urban District Council of Barnes herein-after referred to as "the Council."

Description of
common and
management
by Barnes
Urban District
Council.

2. The powers of the Council generally as to appointing or employing officers and servants and paying them under the general Acts applicable to the Council shall apply to all such persons as in the judgment of the Council may be necessary and proper for the preservation of the common the maintenance of order thereon the enforcement of byelaws with respect thereto and otherwise for the purposes of this scheme and the Council 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.

Appointment
of officers.

3. The Council may execute any works of drainage raising levelling or fencing and for the improvement of the common so far only as may be required for the purposes of the Metropolitan Commons Acts 1866 to 1878 and may do any work necessary for the proper cleansing of the pond on Barnes Green and so much of the Beverley Brook as adjoins Barnes Common or for the proper repair of any footpath on the common 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 trees or shrubs for shelter or ornament or otherwise make the common more pleasant as a place of exercise and recreation but shall do nothing that shall otherwise vary or alter the natural features or aspect of the said common.

Protection and
improvement
of common.

4. The Council shall maintain the common as delineated in the plan deposited with the Board of Agriculture free from all encroachment and shall permit no trespass on or partial or other enclosure of any part thereof and no fences posts rails or other matters or things shall be maintained fixed or erected thereon without the consent in writing of the Council.

Against
encroachments.