



CHAPTER lviii.

An Act to confirm a Scheme under the A.D. 1935.
Metropolitan Commons Acts 1866 to 1898
with respect to Palewell Common in the
county of Surrey. [2nd August 1935.]

WHEREAS the Minister of Agriculture and Fisheries
has in pursuance of the Metropolitan Commons Acts 1866 to 1898 duly certified a scheme for the
establishment of local management with respect to Palewell Common in the county of Surrey which scheme
is set forth in the schedule hereto :

29 & 30
Vict. c. 122,
61 & 62
Vict. c. 43.

And whereas by the said Acts 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 King'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 which as amended is as set forth in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force.

Scheme in
schedule
confirmed.

2. This Act may be cited as the Metropolitan Common Scheme (Palewell) Confirmation Act 1935.

Short title.

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SCHEDULE.

**THE METROPOLITAN COMMONS ACTS
1866 TO 1898.**

Scheme with respect to Palewell Common.

Description of common and management by borough council.

1. The piece of land with the ponds paths and roads on the same commonly known as Palewell Common situate in the parish of Mortlake in the county of Surrey and hereinafter referred to as "the common" which together with the freebord of Richmond Park where it abuts upon the common is delineated in a plan deposited with Ministry of Agriculture and Fisheries (hereinafter referred to as "the deposited plan") and thereon coloured green shall henceforth for all purposes of this scheme be regulated and managed by the mayor aldermen and burgesses of the borough of Barnes acting by the Council (hereinafter called "the Council").

Appointment of officers.

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 order on and the enforcement of byelaws with respect to the common 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 and may alter such rules as occasion may require.

Protection and improvement of common.

3. The Council may execute any works of drainage raising levelling or fencing or other works for the protection and improvement of the common so far only as may be required for the purposes of the Metropolitan Commons Acts 1866 to 1898 and may do any work necessary for the proper cleansing of the pond or for the proper repair of any footpath or road on the common and shall preserve the turf shrubs trees plants and grass thereon and for this purpose may for short periods enclose by fences such portions as may require rest to revive the same and may plant trees and shrubs for shelter or ornament and may otherwise make the common more pleasant as a place for exercise or recreation but shall do nothing that may otherwise vary or alter the natural features or aspect of the common or interfere except as herein provided with free access to every part thereof.

Application of section 193 of Law of Property Act 1925.

4. No person shall without lawful authority draw or drive upon the common any carriage cart caravan truck or other vehicle or camp or light any fire thereon.

18. 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 and the expenses incurred by the Council in the carrying out of this scheme including the compensation (if any) payable as hereinbefore mentioned shall be paid by the Council.

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Costs and expenses.

19. The Council may at any time apply for an amended or new scheme.

Amendment of scheme.

20. 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.

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A.D. 1935. been purchased or acquired or otherwise compensated for by the Council whether by agreement or compulsorily.

rights claimed.

15. The Council claim to be owners in fee simple of the common subject to the rights of the commoners (if any) and to such public rights of way as exist over the same. And the Council claim to have as incidental to such ownership rights of a profitable and beneficial nature and in particular the rights of letting the common for games and other purposes and of selling the furze fern turf gravel and other minerals on in or under the common and of admitting animals to graze thereon so far as such rights can be exercised without interfering with the rights of the commoners.

low rights may be affected.

16. This scheme affects the estates interests or rights of all persons in or over or affecting the common so far only as is absolutely necessary for the purposes of this scheme that is to say by conferring on the Council such powers of management improvement and control as hereinbefore provided and for such purposes the power of taking restricting diminishing or extinguishing any such estate interest or right whenever it shall appear to the Council that the continuance of such estate interest or right will interfere with the control preservation or improvement of the common by the Council or with any of the purposes of this scheme. So far as such estates interests or rights are of a profitable or beneficial nature and are taken away or injuriously affected by this scheme compensation in respect thereof shall be made by the Council to the bodies or persons entitled thereto. The amount of such compensation shall in case of difference be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase and taking or the injuriously affecting of lands under the provisions of the Lands Clauses Acts.

freebord of Richmond Park.

17. Where any part of the freebord of Richmond Park abuts upon the common such part of the freebord shall in addition to the common and subject as hereinafter mentioned be subject to any byelaws made under this scheme. Provided that upon notice in writing to the Ministry of Agriculture and Fisheries given by the Commissioners of Works all provisions of this scheme shall cease to apply to such part of the said freebord or to any part thereof specified in such notice. Save as aforesaid nothing contained in this scheme shall take away prejudice or injuriously affect any estate interest right privilege or power invested in or exercisable by or on behalf of the Crown and under the management of the Commissioners of Works in or over the freebord of Richmond Park or any part of the common except with the consent and approval in writing of the said Commissioners and of the Treasury respectively or shall take away prejudice or injuriously affect any right interest privilege or power now or from time to time enjoyed or exercisable by licensees of the said freebord or other the grantees or assigns of the Crown.

5. The Council shall maintain the common as delineated in the deposited plan free from all encroachments 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 connection with the playing of games or not or other matters or things shall be maintained fixed or erected thereon without the consent in writing of the Council. Except as provided in this scheme no building or fence shall be erected or any other work constructed whereby access to the common or any part thereof is prevented or impeded unless the consent of the Minister of Agriculture and Fisheries thereto is obtained.

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Against encroachment.

6. The Council may set apart any portion or portions of the common as they may consider expedient for games and may form cricket tennis or football grounds. Provided that such portion or portions set apart shall not be so near to any dwelling-house or road as to create a nuisance or be an annoyance to the inhabitants of the house or to the persons using the road and provided that the total area set apart for such purposes shall at no time exceed four acres.

Games.

7. The Council may for the prevention of nuisances and the preservation of order upon the common make byelaws for any of the following purposes viz. :—

Byelaws.

- (a) For preventing encroachments and for prohibiting the placing or depositing and leaving on the common without lawful authority of road-sand materials for repair of roads wood glass china earthen-ware tin carton paper or other refuse or litter so as to affect or tend to affect injuriously the public amenities of the common;
- (b) For regulating the place and mode of digging and taking turf gravel sand or other substance and cutting felling and taking trees or underwood on or from the common in exercise of any right of common or other right over or upon the common;
- (c) For prohibiting any person without lawful authority from digging cutting or taking turf sods gravel sand clay or other substance on or from the common and from cutting felling or injuring any gorse heather timber or other tree shrub brushwood or other plant growing thereon;
- (d) For preventing injury to or defacement or removal of seats fences or barriers or notice boards or other things put up or maintained by the Council on the common;
- (e) For preventing injury to or disfigurement of fences or trees on the common by the posting or painting thereon of bills placards advertisements or notices;
- (f) For preventing any person without lawful authority from setting traps or nets or laying snares of any description

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for birds or other animals taking of birds' eggs or nests and shooting or chasing of game or other animals on the common or brought there for the purpose of being shot or chased;

- (g) For regulating games to be played and other means of recreation to be exercised on the common and assemblages of persons thereon;
- (h) For excluding removing and apprehending if necessary gamblers cardsharps squatters vagrants vendors and exhibitors of books prints photographs or pictures persons guilty of indecent conduct brawling fighting or quarrelling or using indecent or improper language and any idle or disorderly persons so that all such persons may be dealt with according to law;
- (i) For prohibiting or regulating the placing on the common of any photographic cart or of any show exhibition swing roundabout or other like thing and for authorising any officer of the Council to remove from the common any thing placed upon the common in contravention of any such byelaw;
- (j) For prohibiting any person without lawful authority from turning out or permitting to remain on the common any horse cattle sheep or other animal and for authorising any officer of the Council to remove from the common any horse cattle sheep or other animal being upon the common in contravention of any such byelaw;
- (k) For prohibiting without lawful authority horses being exercised or broken in by grooms or others on or across the common;
- (l) For prohibiting or regulating the firing or discharge of firearms or the throwing or discharge of missiles on the common;
- (m) For regulating the use of any portion of the common temporarily closed or set apart under this scheme for any purpose;
- (n) For prohibiting the landing or departure of any aircraft on or from the common;
- (o) Generally for the prevention or restraint of any act or thing tending to the injury or disfigurement of the common or to interfere with the use thereof by the public for the purposes of exercise and recreation;
- (p) For prohibiting the hindrance or obstruction of an officer of the Council in the exercise of his powers or duties under this scheme or under any byelaws made thereunder.

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8. The Minister of Health shall be the authority by whom byelaws under this scheme are to be confirmed.

Provisions as to byelaws.

9. All byelaws made by the Council in pursuance of this scheme shall be legibly written or printed at length on boards of suitable size and placed on such parts of the common not less than two as to the Council may appear desirable.

Publication of byelaws.

10. For purposes of police the common 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.

Police.

11. Any constable being either a member of the police force or an officer appointed by the Council for the execution of this scheme and being in uniform and any person called by such constable to his assistance may without warrant take into custody any person who within view of such constable shall offend against any byelaws of the Council made under this scheme and whose name and residence shall be unknown to and cannot be ascertained by such If any such offender when required by the constable to give his name and residence gives a false name or a false residence he shall be liable on summary conviction to a penalty not exceeding five pounds.

Apprehension of offenders against byelaws.

12. Proceedings with a view to the summary conviction of offenders under this scheme 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 shall be taken before a court of summary jurisdiction according to the provisions of the Summary Jurisdiction Acts Any pecuniary penalty expenses or costs or other money recovered by the council shall notwithstanding anything in any other Act be paid to the Council and shall be applied by them for the purposes of this scheme.

Proceeding against offenders.

13. 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.

Proceeding not to be quashed.

14. 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 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 except only so far as any such estates interests or rights shall or have

Saving of rights.