

CHAPTER CLXXXI.

§ AN ACT FOR VESTING THE MANAGEMENT OF THE OPEN SPACE KNOWN AS WANDSWORTH COMMON IN THE COUNTY OF SURREY IN A BODY OF CONSERVATORS, WITH A VIEW TO THE PRESERVATION THEREOF; AND FOR OTHER PURPOSES. [31st July 1871.]

[*Preamble recites (inter alia) that there is in the county of Surrey ¶ and in the parishes of Battersea and Wandsworth an open space of large extent uninclosed and unbuilt on known as Wandsworth Common (in this Act referred to as the Common) and that the Common is situate within and is or is alleged to be part of the wastes of the manor of Battersea and Wandsworth, and that the Right Honourable John Poyntz, Earl Spencer (in this Act referred to as Earl Spencer) is or claims to be entitled in fee simple in possession to that manor; and that it is expedient that provision be made for the transfer from Earl Spencer of his estate in the Common to a body of Conservators to preserve the same for public use.*]

1. This Act may be cited as the Wandsworth Common Act, Short title. 1871.

2. [*Incorporation of the Commissioners Clauses Act 1847, except the parts set out in the first schedule. Superseded by 50 & 51 Vict. c. cvi. ss. 25—29.*]

3. In this Act,

“The deposited plan” means the plan deposited for the purposes of this Act with the Clerk of the Peace for the County of Surrey:

Interpretation.

“Person” includes corporation aggregate or sole.

[*Part omitted (definitions of “the Secretary of State for the Home Department” and “the First Commissioner of Works”) spent.*]

4. For the purposes of this Act the Common shall be taken to be the open space known as Wandsworth Common, as shown on the deposited plan and thereon coloured green. Description of Common.

5. Within one month after the passing of this Act, and before exercising any of the powers conferred on them by this Act, the Conservators shall deposit with the Clerk of the Peace for the Custody of plan under W. 4. and 1 Vict. c. 83.

* Now the Mayor, Aldermen, and Burgesses of the Municipal Borough of Hornsey.

† Now the Metropolitan Water Board. See 2 Edw. 7, c. 41.

‡ Now the London County Council. See 51 & 52 Vict. c. 41, s. 40 (8).

§ See also 50 & 51 Vict. c. cvi. ss. 25—27.

¶ Now the county of London. See 51 & 52 Vict. c. 41, s. 40 (2).

County of Surrey one duplicate of the plan authenticated as aforesaid, and the same shall be within the provisions of the Act passed in the first year of Her Majesty's reign (chapter 83), "to compel Clerks of the Peace for Counties and other Persons to take the Custody of such documents as shall be directed to be deposited with them under the standing orders of either House of Parliament," in like manner as if the same had been deposited with the Clerk of the Peace in such a case as is provided for by that Act, and the other duplicate of that plan shall be retained by the Conservators, and shall be admissible and be received in evidence for all purposes of this Act on production by the Conservators or their officer.

Schedules to
be part of
Act.

6. The schedules to this Act shall be deemed part of this Act.

7—29. [*Incorporation, appointment, election, and meetings of Conservators. Superseded 50 & 51 Vict. c. cvi. ss. 25—29.*]

Vesting of
Common in
Conservators.

30. The Common, with the buildings and inclosures comprised within the ambit thereof as shown on the deposited plan, being thereon coloured green, with its rights, members, and appurtenances, is by this Act as on and from the passing thereof vested in the Conservators for all the estate and interest therein which immediately before the passing of this Act were vested in or belonged to Earl Spencer.

31. [*Act to be stamped. Spent.*]

Confirmation
of scheduled
agreement.

32. The agreement set forth in the third schedule to this Act is hereby confirmed, and the same shall be carried into effect accordingly.

Common to
be kept open.

33. The Conservators shall at all times keep the Common open uninclosed and unbuilt on, except as regards such parts thereof as are at the passing of this Act inclosed or built on, and except as otherwise in this Act or in the agreement scheduled thereto expressed, and shall by all lawful means prevent, resist, and abate all encroachments and attempted encroachments on the Common, and protect the Common and preserve it as an open space, and resist all proceedings tending to the inclosure or appropriation for any purpose of any part thereof.

Prohibition of
alienation,
etc.

34. It shall not be lawful for the Conservators, except as in this Act or the agreement scheduled thereto expressed, to sell, lease, grant, or in any manner dispose of any part of the Common.

Preservation
of turf, etc.

35. The Conservators shall at all times preserve as far as may be the natural aspect and state of the Common, and to that end shall protect the turf, gorse, heather, timber, and other trees, shrubs, and brushwood thereon.

Prohibition of
sale of turf,
gravel, etc.

36. The Conservators shall not cut turf or dig gravel, mould, or soil, or fell or cut gorse, heather, timber, or other trees, shrubs, or brushwood on the Common for profit, except subject and according to such restrictions and regulations as the First Commissioner of Works from time to time prescribes, and all money received in respect thereof shall be carried to the conservancy fund * under this Act.

Power to
drain, etc.

37. The Conservators shall by virtue of this Act have the following powers; (namely,)

To drain, level, and improve the Common as far only as may be in their judgment from time to time requisite for the use

* Now the county fund. See 51 & 52 Vict. c. 41, s. 68.

thereof for purposes of health and unrestricted exercise and recreation, and to make temporary inclosures for the protection of the turf or the better attainment of the objects aforesaid :

To plant trees and shrubs thereon for purposes of shelter or ornament, and to make temporary enclosures for the protection of such trees and shrubs :

To make and maintain such roads and ways thereon as may be in their judgment necessary or proper, and to maintain any existing roads and ways thereon, as far as the same may be obligatory on them or in their judgment expedient :

To make and maintain thereon ornamental ponds :

But the Conservators shall not make any pond so that any part thereof shall be within ninety yards of any part of the intended road shown on the deposited plan and marked thereon A B, and shall at their own expense effectually line with concrete or puddle with clay all ponds which they make.

38. [*Roads marked A B and C D on the deposited plan and certain works to be made by Earl Spencer within 6 months after the passing of the Act. Spent.*]

39. The Conservators may from time to time purchase by agreement or accept a grant of and hold any land having been or reputed to have been formerly part of or adjoining to the Common, and any such land when vested in the Conservators shall for the purposes of this Act be deemed part of the Common.

Power to purchase or accept lands, etc.

40. Nothing shall be done affecting the Conservators or the Common at any court of the manor of Battersea and Wandsworth without previous notice in writing to the steward of the manor, and on receipt of any such notice the steward shall communicate the same to the Conservators, and the Conservators shall thereupon be entitled, if they think fit, by an agent appointed in this behalf by writing under their common seal, to attend at the court to which the notice relates, and to protest against anything there proposed that would affect them or the Common, and any such protest shall be entered on the rolls of the court.

Notice of proceedings at courts and protests by Conservators.

41. Earl Spencer, his heirs and assigns, shall on every reasonable request in writing by the Conservators, and at their expense, produce to them or their agents, or in any court or elsewhere, as occasion requires, the court rolls of the manor of Battersea and Wandsworth, or any portion thereof, and make and furnish to them such true copies, attested or unattested, thereof, or of any portion thereof as they require, and shall in the meantime keep the same court rolls safe and undefaced, unless prevented by fire or other inevitable accident.

Production, etc. of court rolls of manor.

42. In order that this Act may be a final settlement of all questions and claims connected with the lands formerly part of Wandsworth Common, delineated on the deposited plan, and left uncoloured, or coloured otherwise than green thereon, those lands shall henceforth be and the same are hereby released and discharged from all commonable, customary, and other rights and claims (if any) of the commoners (if any).

Certain lands released from commonable rights.

43. The Conservators shall be capable of taking, and may from time to time (if they think fit) take, any such proceedings as a person having a right of common on the Common or any part thereof is capable of taking, and for the purpose of any proceedings

Power to take proceedings as commoners.

taken by the Conservators they shall have all the rights, powers, and remedies of a person having such a right of common.

Annuity to
Earl Spencer.

44. There shall be by virtue of this Act payable and paid to Earl Spencer, and to his heirs and assigns for ever, a perpetual annuity of two hundred and fifty pounds, without deduction (except for income tax or property tax), and the same annuity and all arrears thereof shall be deemed to be a liability or debt due from the Conservators in their corporate character, and to be in the nature of a specialty liability or debt, and payment thereof shall be made by equal half-yearly payments on the first day of January and the first day of July in every year, the first of those payments to be made on the first day of January one thousand eight hundred and seventy-two, and interest at the rate of five per centum per annum shall be payable on so much of any half-yearly payment thereof as is at any time in arrear for thirty days after the time at which the same shall have become payable, *and that annuity and the interest on the arrears thereof shall be a charge on the whole revenue of the Conservators, and on the conservancy fund under this Act, in priority to all other charges, mortgages, payments, and deductions whatsoever (except for rates and taxes), and shall be payable and paid thereout, and by means thereof, by the Conservators accordingly.* [*Words in italics semble spent.*]

45. [*Power to the person entitled for the time being to the annuity, if any half-yearly payment is 30 days in arrear after demand in writing, (without prejudice to any other remedy) to obtain from two Justices the appointment of a receiver to receive the whole or a competent part of the revenues of the Conservators and the conservancy fund until all arrears of the annuity and costs are paid; and provisions as to the powers of such receiver. Semble spent.*]

46—49. [*As to raising of rates by the Conservators for the annuity and for executing the Act. Superseded 50 & 51 Vict. c. cvi. s. 25.*]

Power to
redeem
annuity.

50. The Conservators may at any time, with the consent of any person for the time being entitled to dispose of the annuity by this Act made payable, redeem the same by payment of such gross sum, and on such conditions as may be agreed on.

51—57. [*Power to Conservators to borrow—Application of money borrowed—Constitution of Wandsworth Conservancy Fund—Conservators' accounts—Production of rate books for Battersea and Wandsworth—Election of Conservators. Superseded 50 & 51 Vict. c. cvi. ss. 25—29.*]

58—64. [*As to byelaws—Appointment of constables and assaults on constables. Superseded 53 & 54 Vict. c. ccxliii. s. 14—21 and schedule, and 61 & 62 Vict. c. ccxxi. s. 61.*]

Police
authority
over
Common.

65. For the purposes of enactments empowering the Metropolitan Police, the Common shall be deemed a place of public resort, and the powers and duties of the Metropolitan Police in relation to public safety and preservation of order and protection of property shall extend thereto; but nothing in this Act shall extend the power of levying police rates to any person or property to which the same would not have extended if this Act had not been passed.

66. [*Arrest of transient offenders. Superseded 53 & 54 Vict. c. ccxliii. s. 18.*]

67—70. [*Proceedings for offences against the Act and byelaws*

—*Application of penalties—Publication of Conservators' notices. Spent.*

71. Nothing in this Act or any byelaw of the Conservators shall take away, abridge, or prejudicially affect any right of common, commonable or other like right of way, or other right in, over, or affecting the Common, other than any right in, over, or affecting the same vested in or belonging to Earl Spencer. Saving for rights of Common, etc.

72. Nothing in this Act or in any byelaw of the Conservators shall take away, abridge, or prejudicially affect any estate or right of Earl Spencer in or over any of the waste lands of the manor of Battersea and Wandsworth, except the Common. Saving rights of Earl Spencer.

73. [*Expenses of obtaining Act. Spent.*]

The SCHEDULES referred to.

THE FIRST AND SECOND SCHEDULES.

[*Parts of Commissioners Clauses Act excepted—As to voting for Conservators. Superseded 50 & 51 Vict. c. cvi. ss. 25—29.*]

THE THIRD SCHEDULE.

* AGREEMENT RESPECTING PORTIONS OF WANDSWORTH COMMON.

1. Christopher William Todd (in this agreement referred to as Mr. Todd), in consideration of the benefits secured to him by this agreement, and of the other stipulations of this agreement, to convey free from incumbrances to the Battersea and Wandsworth committee for the preservation of Wandsworth Common (in this agreement referred to as the promoters), a strip of ground twenty feet wide, along the road called Bolingbroke Grove, coloured dark green on the plan, signed at the same time with this agreement (which strip of ground was formerly part of the Wandsworth Common).

2. The title to the strip of ground aforesaid to begin with the conveyance to Mr. Todd, and the prior title not to be in any way inquired into.

3. The promoters to level, make, and maintain public ways across the strip of ground aforesaid, at the points marked X and Y on the said plan, of the respective widths shown thereon: Provided that no such way injure any tree or trees in Bolingbroke Grove aforesaid.

4. The promoters to be at liberty to fence off the strip of ground aforesaid, except at the ways aforesaid, with an open iron fence not more than four feet six inches high, such fence if erected to be maintained and from time to time repaired and painted by the promoters, who shall also make a path between the fence and any houses built on Mr. Todd's land, such path to be not less than five feet wide in the clear, measured from the fence to the nearest part of any such house, or of any fence, railing, wall, step, or other projection in front of or connected with the same.

5. The promoters to remove the present fence between the strip of ground aforesaid and Bolingbroke Grove, and to replace the same in a parallel line twenty-five feet westward from its present position.

6. The London, Brighton, and South Coast Railway Company (in this agreement referred to as the Railway Company), at their own expense, to shift their present road to the westward as shown on the said plan by the red dotted lines, and to convey or re-lease to Mr. Todd their interest in so much of the present road as will be relinquished by the said Railway Company in consequence of such shifting, and which is represented on the said plan by the space coloured blue, and also in the piece of land distinguished on the said plan by the striped pink colour, and to devote the piece of land distinguished by the pink colour not striped (in addition to the piece of land distinguished by the yellow colour) to the purposes of the road so shifted as aforesaid, and to allow the said shifted road to be open on its south end to the Common, and to be dedicated to public use.

7. The promoters to make a road or way forty feet wide from the south end

* This agreement, although merged in the conveyances made thereunder, is set out on account of the information affecting the Common which it contains.

of the road of the Railway Company so shifted as aforesaid in a direct line adjoining Mr. Todd's property into Bolingbroke Grove, such road when made to belong to and be maintained by the promoters, and also to be dedicated to public use: Provided that the promoters shall not be called upon to cut down or injure any tree in Bolingbroke Grove aforesaid in making the said road.

8. Lord Spencer, in consideration of the other stipulations of this agreement, and of the provisions of the Wandsworth Common Bill now before Parliament, to convey to the Railway Company a portion of the Common at the south end thereof, lying between the St. James's Road and the Railway Company's railway, sufficient for a passenger shed and an approach to the Railway Company's station there, which portion to be conveyed is coloured brown on the said plan.

9. [*Questions arising before the conveyances to be made hereunder are made as to anything to be done under this agreement to be settled by the Attorney General or some one nominated by him. Spent.*]

10. If the Wandsworth Common Bill passes into law in the session of 1871, or any similar Bill passes into law in the session of 1872, then the Conservators constituted thereby to be substituted in this agreement for the promoters.

11. [*The promoters to pay the Railway Company's costs incidental to this agreement, and to their proceedings in Parliament in respect of the Wandsworth Common Bill. Spent.*]

12. If no such Bill as aforesaid passes before the first day of November 1872, this agreement to be void, except as regards payment of the Railway Company's costs, as specified in clause 11.

Dated this twenty-eighth day of March 1871.

HORNE AND HUNTER,

Solicitors for the Promoters.

FRERE, CHOLMELEY, AND Co.,

Solicitors for Lord Spencer.

GEO. BADHAM,

Solicitor for Mr. Todd.

BAXTER, ROSE, NORTON, AND Co.,

Solicitors for the Railway Company.

22—24. [*Power to the Board to alter steps, areas, pipes, etc.—Periods for completion of works limited to 4 and for compulsory purchase of lands to 3 years. Spent.*]

PART III.—OPEN SPACES, ETC.

WANDSWORTH COMMON.

Transfer of
power of
Wandsworth
Common
Conservators
to Board
and vesting
of Common
in Board.

25. Subject to the provisions of this Act all the rights property powers functions privileges authorities liabilities and obligations granted to or imposed on the Wandsworth Common Conservators by the Wandsworth Common Act 1871 except the levying of a rate shall be transferred to and vested in the Board and Wandsworth Common as defined by the Wandsworth Common Act 1871 together with any land purchased accepted or held by the Conservators under the authority of that Act shall upon the passing of this Act vest in the Board for all the estate and interest therein which immediately before the passing of this Act were vested in and belonged to the Conservators.

26. [*Board to discharge liabilities and obligations of Conservators. Spent.*]

Board shall
preserve the
Common as
an open
space.

27. The Board shall at all times preserve Wandsworth Common (including any land of the said Conservators vested in the Board under this Act) as an open space for the perpetual use thereof by the inhabitants of the metropolis for exercise and recreation and may exercise all necessary powers for maintaining and preserving the same as an open space.

28. [*As to byelaws. Superseded 53 & 54 Vict. c. ccxliii. ss. 14—21, and 61 & 62 Vict. c. ccxxi. s. 61.*]

29. [*As to compensation to the clerk of Conservators. Spent (see the Metropolitan Board of Works Minutes, 27th April 1888).*]