CHAPTER lxxxii.

An Act to transfer the powers of the Kendal Fell Trustees to the mayor aldermen and burgesses of the borough of Kendal to unite the townships within the borough into one parish to abolish certain differential rating and for other purposes. [26th July 1907.]

A.D. 1907.

WHEREAS the borough of Kendal in the county of Westmorland (hereinafter referred to as "the borough") is under the government of the mayor aldermen and burgesses of the borough of Kendal (hereinafter referred to as "the Corporation"):

And whereas by an Act passed in the seventh year of the reign of His late Majesty King George III. chapter 111 intituled "An Act for enclosing a piece of waste land in the borough and "township of Kirkby-in-Kendal for the benefit of the poor and "for cleansing and enlightening the streets of the said town "and for confirming a rule or order of assize and order of the "High Court of Chancery relating to rates and assessments to be "raised for the relief of the poor by the inhabitants of the said "township and the owners of lands called the 'Park and Castle "Lands'" (hereinafter referred to as "the Act of 1767") a certain common or tract of waste land called Kendal Fell lying within the borough and within the township of Kirkby-in-Kendal (now known and hereinafter referred to as "the township of Kendal") was vested in certain trustees called the Kendal Fell Trustees for the several purposes therein provided:

And whereas by section 3 of the Kendal Fell Act 1861 (hereinafter referred to as "the Act of 1861") the Act of 1767 was repealed but it was provided that notwithstanding such repeal the several sections and provisions of the Act of 1767 set forth

A.D. 1907.

in the Second Schedule to the Act of 1861 should remain in full force:

And whereas there are at present three townships within the borough namely Kendal Kirkland and Nether Graveship and the township of Kendal is divided for the purposes of the poor rate into the division of Kendal and the division of Park and Castle Lands:

And whereas by a section of the Act of 1767 which was set forth in the Second Schedule to the Act of 1861 it was provided that in all rates and assessments made since the twenty-ninth July one thousand seven hundred and fifty-eight or to be made for the relief of the poor of the township of Kendal one-tenth part of the amount or sum total of the moneys contained in every such rate or assessment in ten parts equally to be divided and no more should be raised collected and levied upon the inhabitants and occupiers of houses lands and tenements within the said division of Park and Castle Lands:

And whereas since the passing of the Act of 1767 further and heavy additional expenses have been charged upon the poor rate:

And whereas it is just and expedient that the poor rate should in the future be assessed and levied uniformly over the whole borough:

And whereas it is expedient to transfer to the Corporation the lands properties powers duties and liabilities of the said trustees in manner in this Act provided and the said trustees concur in such transfer:

And whereas part of the property of the said trustees consists of a sum of ten thousand and one pounds seventeen shillings and fivepence India three and a half per cent. stock standing in the name of the Paymaster-General for the time being for and on behalf of the Supreme Court of Judicature to an account entitled "Ex parte the Kendal Fell Trustees" such stock representing the proceeds of sale of certain township lands paid into court and invested in accordance with the provisions of the Act of 1861:

And whereas it would be of public and local advantage to consolidate the three townships within the borough into one parish for all purposes other than ecclesiastical purposes:

And whereas it is expedient that the other provisions contained in this Act be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas an absolute majority of the whole number of the council at a meeting held on the twelfth day of November one thousand nine hundred and six after ten clear days' notice by public advertisement of such meeting and of the purposes thereof in the Westmorland Gazette a local newspaper published and circulating in the borough such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate:

And whereas such resolution was published twice in the said Westmorland Gazette newspaper and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the eighth day of January one thousand nine hundred and seven being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule of the Borough Funds Act 1903 have been observed:

May it therefore please Your Majesty that it may be enacted and be it 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 (that is to say):—

Short title.

1. This Act may be cited as the Kendal Corporation Act 1907.

Commencement of Act.

2. This Act shall come into operation on the first day of April one thousand nine hundred and eight which date is hereinafter referred to as "the commencement of this Act."

Interpretation.

3. In this Act unless the context otherwise requires—

"The Corporation" means the mayor aldermen and burgesses of the borough of Kendal;

"The borough" means the borough of Kendal;

"The council" "the town clerk" "the borough surveyor" "the borough fund" "the borough rate" "the district fund" and "the general district rate" mean

A.D. 1907.

respectively the council the town clerk the borough surveyor the borough fund the borough rate the district fund and the general district rate of the borough;

"The Act of 1767" means the local Act passed in the seventh year of the reign of His late Majesty King George the Third chapter 111 intituled "An Act for "enclosing a piece of waste land in the borough and "township of Kirkby-in-Kendal for the benefit of the "poor and for cleansing and enlightening the streets "of the said town and for confirming a rule or order "of assize and order of the High Court of Chancery "relating to rates and assessments to be raised for "the relief of the poor by the inhabitants of the said "township and the owners of lands called the 'Park "'and Castle Lands'";

"The Act of 1861" means the Kendal Fell Act 1861;

"The trustees" means the Kendal Fell Trustees acting under the authority of the Act of 1861;

"The township lands" means the lands vested in the Corporation under or by virtue of the provisions of this Act;

"The recreation grounds" means and includes the lands now forming the serpentine walks in the borough and all lands set apart and appropriated for the use of the inhabitants of the borough for recreation ground or for the purpose of drying clothes under or by virtue of section 44 of the Act of 1861;

"Statutory security" means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Corporation.

Repeal of Acts of 1767 and 1861.

4. The Act of 1767 so far as the same is still in force and the whole of the Act of 1861 are hereby repealed Provided that notwithstanding such repeal the several enactments and provisions of the Act of 1767 which are set forth in the First Part of the

Schedule to this Act and the several enactments and provisions of the Act of 1861 which are set forth in the Second Part of that schedule shall remain in full force as if they were re-enacted in this Act with the Corporation substituted therein for the trustees and shall be binding against and in favour of the Corporation as if the obligations and powers by those sections and provisions imposed and conferred on the trustees had been imposed and conferred upon the Corporation instead of the trustees.

Differential rating in respect of park and castle lands.

5. In regard to the sums to be levied for poor rate in the area known as the Park and Castle Lands division of the township of Kendal there shall be deducted from the proportion which but for this section would be due from that area according to its assessable value the sums following during the years hereinafter respectively mentioned :—

	£
For the year ending 31st March 1909 - -	535
For the year ending 31st March 1910 - -	485
For the year ending 31st March 1911 - -	435
For the year ending 31st March 1912 - -	393
For the year ending 31st March 1913 - -	252

In making and levying the poor rate in the parish of Kendal the overseers of that parish shall give effect to the foregoing provisions of this section and so that the sums deducted in the said years respectively shall be borne by the residue of the said parish to the exclusion of the said area known as the Park and Castle Lands division.

Transfer of property of trustees to Corporation.

6.—(1) The lands and all property and liabilities which immediately before the commencement of this Act belonged to or were vested in or attached to the trustees or any person on their behalf under or by virtue of or for any of the purposes of the Act of 1767 or the Act of 1861 shall pass to and shall be and the same are hereby vested in and attached to the Corporation to the same extent and for the same estate and interest as the same were at that time vested in and attached to the trustees or any person on their behalf and may be held recovered used and enjoyed and shall be undertaken executed and performed accordingly.

(2) The rents profits interest dividends and annual proceeds of the township lands other than the recreation grounds and of all property vested in the Corporation under and by virtue of

A.D. 1907.

this section shall go to the borough fund and any income derived from the recreation grounds shall be carried to the credit of the district fund.

(3) Subject to the provisions of this Act the provisions of the Public Health Acts relating to pleasure grounds shall extend and apply to the recreation grounds as if the same had been acquired by the Corporation under those Acts.

(4) Subject to the provisions of this Act all lands (other than the recreation grounds) and all fee farm rents and other interests in land which under or by virtue of this section are vested in the Corporation shall be deemed to be corporate land within the meaning of the Municipal Corporations Act 1882 and may be held and disposed of by the Corporation subject to the provisions of that Act.

Conveyances &c. to remain in force.

7. All conveyances leases deeds appointments contracts agreements mortgages bonds covenants guarantees securities purchases sales and other instruments made or entered into to with in favour of or by for or on behalf of the trustees or any person on their behalf under or by virtue of or for any of the purposes of the Act of 1767 or the Act of 1861 and in force immediately before the commencement of this Act shall be and remain as good valid and effectual in favour of against and with reference to the Corporation and may be proceeded on and enforced in like manner to all intents and purposes as if the Corporation instead of the trustees had been party or privy thereto.

Actions &c. not to abate.

8. Any action suit prosecution or other proceedings commenced either by or against the trustees before the commencement of this Act under or in pursuance or in consequence of any of the provisions of the Act of 1767 or the Act of 1861 shall not abate or be discontinued or prejudicially affected by this Act but on the contrary may be maintained prosecuted or continued by in favour of or against the Corporation as the case may be in like manner to all intents and purposes as if the Corporation instead of the trustees were parties to such action suit prosecution or proceedings.

Collection of rents &c. due to and by trustees.

9. All rents rates interest and other moneys which immediately before the commencement of this Act are due and payable or accruing due and payable to the trustees under or by virtue of or for any of the purposes of the Act of 1767 or the Act of 1861 shall from and after the commencement of this Act be due and payable to and may be collected or recovered by the Corporation in like manner as they could have been collected

or recovered by the trustees and all debts and moneys which immediately before the commencement of this Act are due or owing by or recoverable from the trustees or for the payment whereof the trustees are or but for this Act would be liable shall be paid with all interest (if any) due or to accrue thereon by or be recoverable from the Corporation.

Books &c. to remain evidence.

10. All books registers deeds documents and writings by the Act of 1767 or the Act of 1861 authorised to be kept or made and which if this Act had not been passed would be admitted as evidence shall be receivable in evidence before all courts and other tribunals.

Application of money arising from sales.

11.—(1) All moneys arising from the sale of any portion of the township lands and also all moneys which may be received by the Corporation for equality of exchange shall in the first place be applied to the payment of the costs charges and expenses of any such sale or exchange and to the discharge of any other liability to which the same are applicable under the provisions of this Act and subject thereto shall from time to time be invested in statutory securities or with the consent of the Local Government Board applied for the benefit of the inhabitants of the borough.

(2) The interest dividends and annual proceeds of the moneys so invested shall go to the borough fund.

Regulation as to getting stone in public quarries.

12. Every person who shall work or get stone in the public quarries on the township lands shall clear the site of the quarries or pits which he has worked from the earth and rubbish produced in working the same and shall deposit such rubbish and also any soil removed in the course of such workings in such places as the borough surveyor shall appoint and every person neglecting or omitting any of the above particulars shall for such offence forfeit a sum not exceeding five pounds and a further sum not exceeding one pound for every day such neglect or omission is continued after conviction thereof.

Compensation to officers.

13.—(1) Lewis Gardner Thomson the clerk to the trustees shall be entitled to the sum of ten pounds and Arthur Hoggarth the superintendent of the township lands shall be entitled to one hundred and forty pounds as compensation for loss of office under the trustees.

(2) The compensation aforesaid shall be paid by the Corporation out of moneys coming to them as part of the transferred property of the trustees.

A.D. 1907.

Sale of fee farm rents.

14. The Corporation may sell or redeem and extinguish any fee farm rent or rentcharge reserved and made payable to the trustees in any conveyance made by them of township lands for such sum in gross as may be agreed upon between the Corporation and the owner of the lands out of or in respect of which the said rent is payable.

The moneys arising upon such sale or redemption shall after payment of the costs charges and expenses of the sale be invested and applied in accordance with the section of this Act the marginal note whereof is "Application of money arising from sales."

Consolidation of all townships in borough into one parish.

15.—(1) From and after the commencement of this Act the area included within the borough shall for all purposes (other than purposes exclusively ecclesiastical) be one parish to be called (and in this Act referred to as) "the parish of Kendal."

(2) All and every right custom privilege or power other than in matters ecclesiastical vested in or exercisable by the parishioners ratepayers or inhabitants in vestry assembled of any township by this Act included within the parish of Kendal shall cease to be so vested or exercisable and every office of overseer assistant overseer and collector of poor rates in or for any township by this Act included in the parish of Kendal shall be vacated and determined Provided that nothing in this section shall take away prejudice or affect any security right or remedy for or in respect of the collection and recovery of rates or any proceeding or thing pending or in course of being done immediately before the commencement of this Act or any liability to account or audit and all rates and arrears of rates may be enforced collected and recovered by the overseers of the parish of Kendal or by any officer duly empowered in that behalf Provided also that until the appointment by the Corporation of overseers of the parish of Kendal the overseers for the existing townships shall act as the overseers of the parish of Kendal.

(3) From and after the commencement of this Act all rights powers duties liabilities obligations privileges and immunities not exclusively ecclesiastical incident or attaching to the said parishioners ratepayers or inhabitants in vestry assembled shall for and within the parish of Kendal be incident and attach to the Corporation and be exercisable by them.

(4) All rate books books of account minutes of proceedings deeds papers and writings belonging to the several townships by this Act made part of the parish of Kendal shall be deposited in the town hall at Kendal or at some office or place appointed

by the Corporation and be there kept and preserved by the town clerk or some officer to be appointed by the Corporation and the ratepayers shall at all times have the same right of inspection and making extracts from such books and minutes as they would have had if they had continued to be ratepayers of the said townships. A.D. 1907.

(5) Any powers duties or liabilities vested in or attaching to the Corporation by any order made by the Local Government Board in pursuance of section 33 of the Local Government Act 1894 shall vest in and attach to the Corporation in respect of the parish of Kendal as if any reference in any such order to the existing townships extended and applied to the parish of Kendal.

(6) Every person who has acquired or who on or before the commencement of this Act acquires or is in the course of acquiring a settlement in any of the existing townships or a status of irremovability from the Kendal Union by reason of residence in any of the existing townships shall be deemed to have acquired to acquire or to be in the course of acquiring a settlement in the parish of Kendal or a status of irremovability from the Kendal Union.

(7) For the purposes of this section and for any other purposes connected with settlement or removal in relation to cases affected by this Act any residence completed any act or thing done any status condition right or privilege acquired or created or in the course of acquisition or creation prior to the commencement of this Act in any of the existing townships or in the Kendal Union by reason of residence in any of the existing townships shall have effect as if the residence had been completed the act or thing had been done the status condition right or privilege had been acquired or created or had been in the course of acquisition or creation in the parish of Kendal or in the Kendal Union.

(8) Until a valuation list for the parish of Kendal is made and approved and has come into force the valuation lists of the existing townships shall together be deemed to be the valuation list of the parish of Kendal.

(9) For the purposes of the preparation and revision of new lists and registers of persons entitled to vote at any parliamentary election of registers of county and parochial electors and of lists of burgesses and of jury lists this Act shall be deemed to come into operation on the date of its passing but for the purposes

A.D. 1907.

of the existing lists and registers the existing townships shall be deemed to continue unaltered until the new lists and registers are in force.

(10) All property debts and liabilities of the existing townships other than such as may be held for any charitable or ecclesiastical purpose shall become the property debts and liabilities of the parish of Kendal.

(11) All sums of money which at the commencement of this Act shall be in the hands of the overseers of any of the existing townships on account of any rates or otherwise in connection with their duties as overseers shall be duly accounted for by them and paid over to the overseers of the parish of Kendal and all sums which at the commencement of this Act shall be due to the overseers of any of the existing townships shall be paid to the overseers of the parish of Kendal and all debts and liabilities of the overseers of any of the existing townships incurred in connection with their duties as overseers shall be a charge upon the rates of the parish of Kendal as fully and effectually as they would have been upon the rates of any such townships if this Act had not been passed.

(12) If at the commencement of this Act any sums shall be in the hands of or due to the guardians of the Kendal Union in respect of any of the existing townships such sums shall be treated as being in their hands in respect of or due from the parish of Kendal.

(13) If at the commencement of this Act any action or proceeding shall be pending or existing by or against the overseers of any of the existing townships in relation to their township the same shall not abate or be in anywise affected by reason of the passing of this Act but may be continued prosecuted and enforced by or against the overseers of the parish of Kendal.

(14) All contracts deeds bonds agreements and other instruments entered into or made by or with the overseers of the existing townships or any of them and subsisting at the commencement of this Act shall be of as full force and effect against or in favour of the overseers of the parish of Kendal and may be enforced as fully and effectually as if instead of the overseers of the existing townships or any of them the overseers of the parish of Kendal had been parties thereto.

(15) The parish of Kendal shall form part of the Kendal Union.

(16) Notwithstanding the alteration of townships effected by this Act all contribution orders made by the guardians of the Kendal Union and all precepts issued and rates made by the council of the borough previous to the commencement of this Act and addressed to the overseers of any of the existing townships shall be as valid in law as if this Act had not been made.

(17) Any assistant overseer or collector of poor rates of or for any of the existing townships who shall be in office at the commencement of this Act and for whom no special provision shall be made by this Act or for whom no equivalent office shall be found by the Corporation shall be deemed to be an officer entitled to compensation within the meaning of section 120 of the Local Government Act 1888 and that section shall with the necessary modifications and with the substitution of the "Local Government Board" for the "Treasury" and the "Corporation" for the "county council" apply accordingly Provided that the non-acceptance of any office offered shall not be a bar to the right of any officer to compensation and any compensation payable by the Corporation under this subsection shall be paid out of the borough fund Provided that any officer to whom compensation shall be awarded in pursuance of this section shall not be deemed to have become entitled to a superannuation allowance under section 2 of the Poor Law Officers Superannuation Act 1896.

(18) Subject to any future revision the basis or standard of county rate for the county of Westmorland shall be deemed to be altered by the omission from that basis or standard of the reference therein to the total annual value of the property of each of the existing townships and by the insertion therein of a reference to the total annual value of the property of the parish of Kendal:

The total annual value of the property of the parish of Kendal shall be the sum which represents the total annual value of the property in the existing townships.

(19) Nothing in this Act contained shall restrict the power of the Local Government Board under the Acts relating to the relief of the poor in regard to the alteration or dissolution of unions or in respect of the union division or alteration of parishes.

Wards of parish and guardians.

16.—(1) The parish of Kendal shall be divided into wards for the election of guardians corresponding in number and boundaries with the municipal wards of the borough namely North Ward East Ward and West Ward.

A.D. 1907.

(2) Unless and until other provision be made under section 60 of the Local Government Act 1894 or otherwise the number of guardians to be elected for the several wards shall be twelve and four shall be assigned to each of the wards.

(3) The persons who at the date of the commencement of this Act hold the office of the guardians of the poor for the existing townships shall be deemed to have been elected and shall act as the guardians of the poor of the parish of Kendal and each such person shall continue so to act as a guardian until the date upon which he would have retired from that office if this Act had not passed.

(4) The guardians holding office at the date of the commencement of this Act shall be apportioned by the council of the borough among the wards as set forth in this section and in all subsequent ordinary elections the number of guardians as set forth in this section shall be elected for each of the said wards.

(5) Any election of guardians required to be held before the next ordinary election to fill any casual vacancy occurring in consequence of the death resignation or disqualification for the office of guardian of any person who in accordance with the provisions of this section will continue to act as a guardian for the parish of Kendal shall be held within the area for which such person will hold the office of guardian under the provisions of this section and the town clerk shall alter any register of parochial electors so far as may be necessary for the purposes of such election.

For protection of C. Graham collector of rates.

17.—(1) The Corporation shall as soon as may be after the commencement of this Act appoint Christopher Graham (the present collector of poor rates for the township of Kendal) assistant overseer for the parish of Kendal at the same remuneration as that to which he is entitled as such collector of poor rates and on terms similar (having regard to the different circumstances) to those under which he holds the office of collector of poor rates.

(2) On ceasing to be the assistant overseer of the parish of Kendal the said Christopher Graham shall be entitled to an annuity of one hundred and ten pounds in lieu of superannuation allowance under the Poor Law Officers Superannuation Act 1896 and such annuity shall be payable quarterly during the remainder of the life of the said Christopher Graham and shall be paid by the Corporation out of the borough fund.

Continuity of guardians not to be affected.

18. Nothing in this Act contained shall solve or operate or be construed to solve the continuity of the guardians of the poor of the Kendal Union or alter or in any manner prejudicially affect

the tenure of any lands tenements and hereditaments now vested in them but such lands tenements and hereditaments shall continue to be and be held by the said guardians upon the trusts and to and for the ends intents and purposes for which the same now are held and enjoyed by them.

Expenses of execution of Act.

19. All expenses incurred by the Corporation in the execution of the provisions of this Act relating to the recreation grounds shall be defrayed out of the district fund or general district rate Save as aforesaid all the expenses incurred by the Corporation in the execution of the provisions of this Act shall be defrayed out of the borough fund.

Payment of compensation and costs out of fund in court and transfer of fund.

20. On the application of the Corporation at any time after the commencement of this Act the High Court may order any part of the said sum of ten thousand and one pounds seventeen shillings and fivepence India three and a half per cent. stock to be sold and the proceeds thereof applied for or towards the payment of any compensation payable under this Act and the costs charges and expenses which by this Act are directed to be paid and may also on the like application order the said stock or the residue thereof to be transferred to an account to be entitled "Ex parte "the mayor aldermen and burgesses of the borough of Kendal" and such stock may be applied as directed by the Lands Clauses Consolidation Act 1845 with respect to the purchase money or compensation payable in respect of lands purchased or taken from parties having limited interests and all interest and dividends accruing on the said stock shall from time to time and as often as the same shall become payable be paid to the treasurer of the borough and paid by him into the borough fund.

General power to appropriate lands with consent of Local Government Board or Board of Education.

21. In addition to and without prejudice to any other powers for the time being vested in the Corporation they may retain and use for any purpose for which the Corporation are for the time being empowered to hold lands any lands for the time being belonging to them whether acquired in pursuance of a local or general Act of Parliament or otherwise and not required for the purpose for which they were acquired but the powers given by this section shall not be exercised except with the consent of the Local Government Board (or in the case of land acquired for the purposes of the Education Acts 1870 to 1903 of the Board of Education) and subject to such conditions as the Local Government Board or the Board of Education as the case may be may impose.

A.D. 1907.

Recovery of penalties.

22. Save as otherwise expressly provided by this Act all offences against this Act and all penalties forfeitures costs or expenses imposed or recoverable under this Act may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

Penalties to be paid over to treasurer.

23. All penalties recovered under this Act shall except in the case of penalties recovered against the Corporation be paid to the treasurer of the borough and be by him carried to the credit of the borough fund.

Judges not disqualified.

24. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

Application of section 265 of Public Health Act 1875.

25. Section 265 (Protection of local authority and their officers from personal liability) of the Public Health Act 1875 shall extend and apply to the purposes of this Act as if the same were re-enacted herein.

Saving as to any special trusts.

26. Nothing in this Act shall affect the destination of any fund held in trust for the benefit of any particular township or of any special trust or the income thereof but this provision shall not prejudice or affect the vesting in the Corporation of the lands and property passing under this Act from the trustees to the Corporation or the appropriation under this Act of the income arising from such lands and property.

Costs of Act.

27. All costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act including the costs charges and expenses of the Kendal Fell trustees in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the borough fund or out of moneys coming to them as part of the transferred property of the trustees.

The SCHEDULE referred to in the foregoing Act.

Part I.

Enactments and Provisions of the Act of 1767 saved from Repeal and set forth in the Second Schedule to the Act of 1861.

Rents to the lords.

And be it further enacted by the authority aforesaid that there shall be issuing and payable forth and out of the lands and grounds to be inclosed by virtue of this Act unto the said Sir James Lowther and his assigns during the continuance of his said term and interest in the seignory of the said common or waste ground and afterwards unto His Majesty His heirs and successors Kings and Queens of this realm for ever or their assigns owners for the time being of the seignory of the said Richmond and Marquis fees the yearly rent of thirteen shillings and fourpence and also unto the said Earl of Suffolk and Berkshire his heirs and assigns for ever owners for the time being of the seignory of the said Lumley fee the yearly rent of six shillings and eightpence to be payable and paid without any deduction for or on account of any taxes assessments or impositions whatsoever parliamentary or otherwise by the owners proprietors or occupiers for the time being of the several lands and grounds so to be enclosed as aforesaid at the Feast of Pentecost and on the twenty-second day of November in every year for ever by equal half-yearly payments the first payment thereof to begin and be made at the Feast of Pentecost which will be in the year one thousand seven hundred and sixty-eight.

The common vested in the trustees in common socage.

And be it further enacted by the authority aforesaid that the said waste or common shall be and the same is hereby vested in the said trustees and their successors for ever when and as soon as they shall be chosen and appointed in pursuance of this Act and that they shall hold the same in free and common socage by payment of the said several and respective rents to the said lords of the seignory thereof respectively freed and discharged of and from all right title or interest whatsoever which the householders or landowners of the said burgh and township or any other person or persons could or might have in or to the same or any part thereof except as hereinafter is excepted in trust nevertheless for the purposes hereinafter mentioned.

Rights reserved to the lords of the manors.

And be it further enacted by the authority aforesaid that nothing herein contained shall extend or be construed to extend to defeat lessen or prejudice the right title or interest of the lord or lords of the manor of Kirkby in Kendal aforesaid to the seignories and royalties incident

A.D. 1907.

to or belonging to the same but that the lords of the manor for the time being shall and may from time to time and at all times hereafter hold and enjoy all rents services courts perquisites and profits of courts goods and chattels of felons and fugitives felons of themselves and put in exigent deodands waifs estrays forfeitures and other royalties privileges and appurtenances to the said manor or to the lords thereof for the time being incident appendant belonging or appertaining in the same in as full ample and beneficial manner to all intents and purposes as the lords of the said manor for the time being could or might have held and enjoyed the same in case this Act or the said new intended inclosure had never been made.

Reservation of other rights in general.

Saving always to the King's most Excellent Majesty His heirs and successors and to all and every person and persons his her and their heirs executors and administrators (other than and except the said lords of the said common or waste claiming any right upon the same as parcel of their said seignories called the Richmond Marquis and Lumley fees and all and every other person and persons having right of common or pasturage on the said waste or common so directed to be inclosed as aforesaid and who shall receive benefit by the said inclosure his her and their heirs successors executors and administrators respectively) all right title and interest as they every or any of them had or enjoyed in to or out of the said waste or common before the passing of this Act or could or might have enjoyed in case this Act had not been made.

Part II.

Enactments and Provisions of the Act of 1861.

Saving of rights.

5. Nothing in this Act contained shall in any manner defeat affect or prejudice any rights privileges liberties powers easements accommodations or exemptions which under or by virtue of the said Act [meaning the Act of 1767] or under or by virtue of any contract or agreement entered into by virtue of or in accordance with such Act are specifically granted or reserved to or for the benefit of any person and such person shall be entitled to such or the like powers and remedies for securing the possession use and enjoyment of such rights privileges easements accommodations or exemptions except such of them as are inconsistent with the powers of this Act as he would have been entitled to if this Act had not been passed.

Trustees may grant leases of lands for working stone.

29. The trustees may from time to time demise or lease any part or parts of the township lands suitable and proper for quarrying stone therein unto any person whomsoever for any term not exceeding twenty-one years together with full liberty to dig for take and carry away and dispose of all such stone as shall be found therein together also with full liberty to set up limekilns on such lands and to burn into lime

any limestone obtained therein and to dispose of the lime so procured together with full power to make such tramroads and other ways over the said township lands as may be necessary for carrying and conveying such stone and lime from the said quarries and limekilns together with all such other rights powers privileges easements and advantages whatsoever as shall be deemed necessary or convenient for working burning selling and carrying away the stone and lime from the lands so demised or as shall be agreed upon with or required by any such lessee so that upon every such lease there be reserved and made payable yearly or oftener during the continuance of the lease the best yearly fixed annual or other rent or royalty that can at the time of making such lease and considering the nature and circumstances of the case and the responsibility of the proposed tenant be reasonably obtained for the lands to be comprised in such lease without taking any premium or anything in the nature of a premium for granting such lease and every such lease shall contain such covenants as the trustees at the time of granting the same shall from time to time think proper or require to be inserted therein.

Power to enter into contracts for leases for working stone.

30. For the purpose of better enabling the trustees to carry into effect the said power of granting leases for getting stone and for burning lime they may enter into any contracts which they shall think expedient for granting such leases and at any time afterwards may agree to vary or alter the terms of any such contract or to release and discharge the same and may enter into any new or other contract in lieu thereof in respect of the whole or any part of the lands comprised therein or may release the party entering into such contract from all liability under the same Provided always that every lease to be granted in pursuance of any such contract shall be in accordance with the provisions of this Act.

Trustees may for certain purposes purchase or exchange lands.

39. Whenever the trustees shall deem it advisable for the purpose of improving the approaches to the township lands or any part thereof or for the more convenient use and occupation of such lands or any part thereof to purchase any land adjoining or near thereto or to acquire the same by exchange for some portion of the township lands it shall be lawful for the trustees to agree with the owners of such other lands for the acquisition thereof either by purchase or in exchange for some portion of the township lands and for carrying any such exchange into effect it shall be lawful for the trustees by deed * * * * * to grant and convey the lands to be given by them in exchange to the person to whom the same shall have been agreed to be conveyed discharged from the trusts and powers of this Act but to such uses and upon such trusts or otherwise as such persons shall direct and by the same deed the lands proposed to be given to the trustees in exchange shall be conveyed to and shall thereupon vest in the trustees for ever upon the trusts and for the purposes of this Act * * * * * .

A.D. 1907.

Trustees may receive or pay sums for equality of exchange.

40. For better enabling the trustees to effect any such exchange it shall be lawful for the trustees to receive from or pay to any person with whom such exchange shall be effected any sum of money which they may think proper for equality of exchange * * * * * .

Trustees may erect limekilns at the public quarries.

42. The trustees may at any time if and when they shall deem it expedient so to do erect and maintain in upon or near the public quarries on the said township lands limekilns and other conveniences for the burning of lime and may make reasonable charges for the use of such limekilns and conveniences Provided always that nothing herein contained shall be construed to affect the rights of the persons entitled to get and burn limestone at the said quarries to build or use limekilns upon such part of the said lands as shall be appropriated for that purpose or to make it compulsory upon such persons to use limekilns that may have been erected by the trustees.

Certain lands set apart for recreation sites of public buildings &c.

44. The portions of land described in the First Schedule bereto [being the lands described in the Third Part of this Schedule] and therein referred to by the numbers 1 and 2 shall be and the same are hereby set apart and appropriated for the use of the inhabitants of the borough of Kendal for recreation ground and for the purpose of drying clothes and the trustees may appropriate further portion or portions of the township lands for the sites of places of public recreation or convenience or of baths washhouses drying grounds markets or other public purposes.

Serpentine Walks to be preserved for public recreation.

45. Except as hereinafter provided no part of the lands now forming the Serpentine Walks (containing seventeen acres three roods and twenty-eight perches) shall be sold or leased or exchanged under the provisions of this Act but the same shall for ever remain appropriated for purposes of public recreation Provided that it shall be lawful for the trustees to vary the boundaries thereof by exchanging portions thereof for other lands adjoining thereto and equally convenient for purposes of recreation so nevertheless that the total quantity of land so exchanged shall not exceed two acres and that the total area appropriated for public recreation shall not be less than the present area of the said Serpentine Walks.

Income of trustees may be applied to repair of buildings &c.

46. The trustees shall have power to apply any part of the income arising from the said township lands to the repair of any buildings thereon belonging to them * * * * * and for that purpose to apply any portion of the monies which may come to their hands under the provisions of this Act.

Power to remove limekilns &c.

47. The trustees shall have power to remove any limekilns dobby houses and tenters or other buildings which may be upon any part of the said township lands paying a reasonable compensation to the parties interested or claiming to be interested therein and if any dispute shall arise as to the amount of such compensation the same shall be settled by arbitration.

Public rights to be provided for.

48. The trustees shall at all times set apart and appropriate and leave sufficient convenient and proper grounds on the township lands for public quarries limekilns and tenter grounds for the use of the owners or proprietors of houses lands or tenements within the townships of Kendal Kirkland and Nethergraveship Provided always that if any land set apart for tenter grounds shall not be used as such by some person entitled so to do for the space of any five consecutive years such land may at any time thereafter be used by the trustees for any other purposes authorised by this Act.

Township lands not subject to provisions of 5 & 6 W. 4. c. 69, but not exempt from provisions of 4 & 5 W. 4. c. 76.

52. The township lands shall not be subject to the provision of the third section of the Act fifth and sixth William the Fourth chapter sixty-nine intituled an Act to facilitate the conveyance of workhouses and other property of parishes and of incorporations or unions of parishes in England and Wales but nothing in this Act contained shall exempt the township lands or the trustees from the provisions of the Public Act fourth and fifth William the Fourth chapter seventy-six intituled an Act for the amendment and better administration of the laws relating to the poor in England and Wales.

Part III.

The Lands described in the First Schedule to the Act of 1861.

1. All that parcel of land called the Bowling Fell containing by admeasurement two acres three roods and twenty-nine perches.

2. Six acres of land on the north side of and adjoining to the road leading from the House of Correction Hill to Greenbank and bounded on the east by gardens belonging to the said township lands and on the north and west by the said township lands.

Printed by Eyre and Spottiswoode,
for
Rowland Bailey, Esq., I.S.O., M.V.O., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
WYMAN and SONS, Ltd., Fetter Lane, E.C.; or
OLIVER and BOYD, Tweeddale Court, Edinburgh; or
E. PONSONBY, 116, Grafton Street, Dublin.