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An Act for conferring further powers upon the Pontefract Park Trustees and the Pontefract Street Commissioners respectively. A.D. 1869.

[24th June 1869.]

WHEREAS by an Act passed in the twentieth year of the reign of His late Majesty King George the Third, intituled "An Act for dividing the park of Pontefract in the county of York, and for other purposes therein mentioned," which said Act is herein-after called "the Act of 1780," it was, amongst other things, provided, that a certain portion or allotment of the said park described in the said Act, containing three hundred and twenty-five acres, should thenceforth be held and enjoyed by the inhabitants of the townships of Pontefract and Tanshelf in the county of York freed, acquitted, and for ever discharged of and from all right of soil and of common, of pasture, tithes, coals, minerals, and other rights and claims whatsoever of the King's Majesty, his heirs and successors, and his and their lessees of the said park and premises within or upon the same portion or allotment: 20 G. 3. c. 55.

And whereas, to the end and intent that the said portion or allotment assigned to and for the benefit of the said inhabitants (herein-after referred to as "the park") should be appropriated and converted to the best advantage, and the pasturage thereof taken and enjoyed in the most beneficial manner, and under proper regulations and restrictions, it was by the said Act further enacted, that the park should thenceforth become and remain vested in trustees for the improvement and management thereof, such trustees (herein-after called "the park trustees") being thirty-three male inhabitants of the township of Pontefract for the time being, of the age of twenty-one years and upwards, whose respective estates should be the highest assessed to the poor rates within the said township, and four male inhabitants of the township of Tanshelf for the time being, of the age aforesaid, whose respective

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estates should be the highest assessed to the poor rates within the said township, such estates being freehold or copyhold, or being leasehold for ninety-nine years or a longer term, and held in the person's own or his wife's right:

And whereas by the said Act the park trustees were, amongst other things, empowered to grant leases from time to time, for the purpose of improving the park, of different parts thereof, (such leases not to exceed the term of four years, and the quantity to be inclosed for such improvement not at any one time to exceed one hundred acres,) and to let publicly from time to time such part of the park as to them should seem convenient for the purpose of making bricks for sale, for any term not exceeding seven years at a time, and under such covenants and agreements as the said trustees should think proper, and to make bricks or get stone for the purpose of erecting a herdsman's house, draining the said portion or allotment, or repairing the roads liable to be repaired by them out of the profits of the park, but not to get or seek for any mines or minerals in the said park, nor to subvert the soil thereof, except for the purposes before mentioned:

And whereas by an Act passed in the fiftieth year of the reign of
50 G. 3. c. 40. His late Majesty King George the Third (herein-after called the Act of 1810), intituled "An Act for paving and otherwise improving the streets and other public passages within the town of "Pontefract in the county of York, for better supplying the said "town with water, and for altering and amending an Act passed "in the twentieth year of His present Majesty, intituled 'An Act "'for dividing the park of Pontefract in the county of York, and "'for other purposes therein mentioned,'" it was enacted, that the thirty-three persons inhabitants of Pontefract, and such of the four persons inhabitants of Tanshelf as were owner or owners of house or houses in Pontefract, being park trustees, should be commissioners (herein-after referred to as the street commissioners) for carrying the said Act of 1810 into execution:

And whereas by the Act of 1810 the street commissioners were, amongst other things, authorized to repair the streets or highways within the township of Pontefract, to alter and improve the same, to make new streets, to appoint watchmen, to construct drains, to lay down pipes and conduits, to supply water to the inhabitants free of charge, and to light the said streets and highways:

And whereas by the Act of 1810 the street commissioners were empowered, for the before-mentioned and other purposes of the said Act, to levy a rate not exceeding two shillings in the pound upon all buildings, tenements, and hereditaments within the limits of the

said Act, and to raise for the like purpose, upon the security of the rates, any sum of money not exceeding in the whole the sum of three thousand pounds:

And whereas by the Act of 1810 it was further enacted, in order that the several advantages arising from the park might be more equally distributed amongst all the inhabitants of the said townships of Pontefract and Tanshelf, that the park trustees should, out of the monies arising by virtue of the Act of 1780, pay the sum of forty-five pounds yearly to the street commissioners, to be laid out by them in and for the purposes of the Act of 1810, and should also pay the sum of five pounds ten shillings yearly to the surveyors of the highways of the township of Tanshelf for the time being, to be laid out by them in paving, repairing, and amending the several streets and pavements within the said township of Tanshelf:

And whereas since the passing of the Act of 1810 the population of the town of Pontefract has greatly increased and is still increasing, and it is expedient, and will be of great local advantage, that further and better provisions should be made for carrying into effect the objects of the said Acts of 1780 and 1810, and that those Acts should be amended:

And whereas a valuable bed of coal is believed to exist under the park, which can be worked without subverting or breaking up the soil or otherwise interfering with the use of the greater part thereof, and it is expedient, and would be of great local advantage, that the provisions of the Act of 1780 prohibiting the park trustees from getting or seeking for any mines or minerals in the park, and from subverting the soil thereof, should be repealed, and that provision should be made for the application of any monies which may accrue to the park trustees in respect of the sale or working of such coal for the benefit of the inhabitants of the said townships:

And whereas the objects aforesaid cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it 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:

Short title.

1. This Act may for all purposes be cited as "The Pontefract Park Trustees and Street Commissioners Act, 1869."

8 & 9 Vict. c. 18.. 10 & 11 Vict. cc. 16. and 17. 23 & 24 Vict. c. 106., and

2. "The Waterworks Clauses Acts, 1847 and 1863," "The Lands Clauses Consolidation Act, 1845," (except the provisions thereof with respect to the purchase and taking of land otherwise than by agreement,) "The Lands Clauses Consolidation Acts Amendment Act,

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1860," and sections seventy-five to eighty-eight inclusive of "The Commissioners Clauses Act, 1847," relating to mortgages, are, except where expressly varied by this Act, incorporated with and form part of this Act.

26 & 27 Vict. c. 93. incorporated.

Interpretation of Terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Act of 1780" means the Act passed in the twentieth year of the reign of His late Majesty King George the Third, and intituled "An Act for dividing the park of Pontefract "in the county of York, and for other purposes therein mentioned;" the expression "the Act of 1810" means the Act passed in the fiftieth year of the reign of His late Majesty King George the Third, intituled "An Act for paving and otherwise improving the streets "and other public passages within the town of Pontefract in the "county of York, for better supplying the said town with water, and "for altering an Act passed in the twentieth year of His present "Majesty, intituled 'An Act for dividing the park of Pontefract in "'the county of York, and for other purposes therein mentioned;'" the expression "the park trustees" means the trustees acting under the Act of 1780, and incorporated by this Act; the expression "the park" means that portion or allotment of land described in the Act of 1810 which was thereby vested in the park trustees, for the sole benefit of the inhabitants of Pontefract and Tanshelf; the expression "the street commissioners" means the commissioners acting under the Act of 1810, and incorporated by this Act; and the expression "superior court" or "court of competent jurisdiction," or any like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

50 G. 3. c. 40.

Park trustees incorporated.

4. The park trustees and their successors shall be one body corporate, by the name of "the Pontefract Park Trustees," and by that name shall have perpetual succession and a common seal, with power to carry into effect all and any of the provisions of the Act of 1780, and of so much of the Act of 1810 as relates to the park trustees, except such as are by this Act varied or repealed, and all the powers, rights, property, and effects to which the park trustees were, prior to the passing of this Act, in any way entitled, are by this Act vested in the park trustees as incorporated by this Act, but subject to all debts, liabilities, and engagements affecting

the same, or affecting the said trustees in respect thereof; and all assignments, leases, agreements, conveyances, and orders which the park trustees have power or are required to give, make, or enter into, and which are by the said Act to be in writing under the hands of the park trustees, or some of them, shall from and after the passing of this Act be made under the common seal of the said trustees.

Street commissioners incorporated.

5. The street commissioners and their successors shall be one body corporate by the name of "the Pontefract Street Commissioners," and by that name shall have perpetual succession and a common seal, with power to carry into effect all or any of the provisions of the Act of 1810, except such as are by this Act varied or repealed, and all the powers, rights, property, and effects to which the street commissioners were prior to the passing of this Act in any way entitled are by this Act vested in the street commissioners as incorporated by this Act, but subject to all debts, liabilities, and engagements affecting the same, or affecting the said commissioners in respect thereof; and all appointments, precepts for raising rates, rates, assessments, mortgages, annuities, assignments, accounts, orders, contracts, notices, sales, and conveyances which the street commissioners have power or are required to give, make, or enter into, and which are by the said Act to be in writing under the hands of the street commissioners, or some of them, shall from and after the passing of this Act be made under the common seal of the said commissioners.

Contracts, &c. of park trustees preserved.

6. All purchases, sales, conveyances, mortgages, bonds, debts, deeds, securities, and contracts made, executed, entered into, or owing before the passing of this Act by, to, or with respect to the park trustees shall be as effectual to all intents for, against, and with respect to the park trustees, as incorporated by this Act, as if the same had been made, executed, entered into, or incurred by, to, or with respect to them after the passing of this Act, and may accordingly be proceeded on and enforced by and against the park trustees as incorporated by this Act.

Contracts, &c. of street commissioners preserved.

7. All purchases, sales, conveyances, mortgages, bonds, debts, deeds, securities, and contracts made, executed, entered into, or owing before the passing of this Act by, to, or with respect to the street commissioners shall be as effectual to all intents for, against, and with respect to the street commissioners, as incorporated by this Act, as if the same had been made, executed, entered into, or incurred by, to, or with respect to them after the passing of this Act, and may accordingly be proceeded on and enforced by and against the street commissioners as incorporated by this Act.

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Actions, &c. by and against park trustees or street commissioners not to abate.

8. Any action, suit, prosecution, or other proceeding commenced either by or against the park trustees or the street commissioners in the name of any of their officers, or in the name or names of one or more of the said trustees or commissioners acting on behalf of all the said trustees or commissioners, as the case may be, shall not abate or be discontinued or be prejudicially affected by this Act, but shall continue and take effect in favour of or against the park trustees or street commissioners respectively, in the same manner to all intents as if this Act had not been passed, and, where necessary, the corporate name of the park trustees or of the street commissioners shall, as the case may be, be substituted therein for the name or names of such officers, trustees, or commissioners acting on behalf of the said trustees and commissioners; and any action, suit, prosecution, or other proceeding commenced after the passing of this Act, either by or against the park trustees or street commissioners respectively, shall be in the respective corporate names of the park trustees or the street commissioners, as the case may be.

Increased borrowing powers.

9. The amount which the street commissioners may borrow under the fifteenth section of the Act of 1810 on the security of the rates authorized by that Act shall not exceed in the whole the sum of ten thousand pounds, instead of three thousand pounds as authorized by that section.

Street commissioners may contract for supply of water.

10. In addition to the powers conferred upon the street commissioners by the Act of 1810 with respect to the supply of water, the street commissioners shall provide, and may contract with any person or persons or body corporate to enable them to provide, a supply of water within the township, for public, domestic, and other purposes.

Power to purchase land by agreement only.

11. For the purposes of the water supply by the Act of 1810 and this Act authorized, or for the improvement thereof, the street commissioners may purchase and take, by agreement only, land not exceeding the quantity of ten acres.

Rates for supply of water for domestic purposes.

12. The street commissioners shall, at the request of every person entitled to demand a supply of water, furnish to the occupier of every dwelling house or part of a dwelling house to which the request relates within the township of Pontefract a sufficient supply of wholesome water for the domestic purposes (including one watercloset and one bath) of every such occupier, at any rate not exceeding the following rates; (that is to say,)

Where the yearly value at rackrent of the premises supplied does not exceed five pounds, at a rate not exceeding twopence per week:

Where the annual value at rackrent of a house or part of a house shall exceed five pounds and not exceed twenty pounds, a yearly rate not exceeding seven pounds ten shillings per centum on the annual value of such house or part of a house:

Where such annual value at rackrent shall exceed twenty pounds, a yearly rate not exceeding six pounds per centum on the amount of such annual value.

Rates for watercloset and baths.

13. The street commissioners may charge in any one year in respect of every watercloset beyond the first, and of every bath beyond the first, the sum of five shillings: Provided always, that a supply of water for domestic purposes shall include a supply of water for one watercloset and one bath, but not for other watercloset or baths, or for cattle or for horses, or washing carriages, where such horses or carriages are kept for sale or hire, or for any trade, manufacture, or business whatsoever, or for watering gardens or pleasure grounds, or for fountains, or for any ornamental purpose.

Water for other than domestic purposes.

14. The street commissioners may supply any person with water for other than domestic purposes for such remuneration and on such terms and conditions as may be agreed on between the street commissioners and the person desirous of having the supply.

Regulation for supply of water.

15. The street commissioners shall not be obliged to supply any water unless the pipes and cocks and other apparatus necessary for the supply are constructed of such strength, material, and size, and on such principle, as are required or approved by the street commissioners, and are used so as to prevent the waste or undue consumption of the water, and the return of foul air and other noisome or impure matter into the pipes belonging to or connected with the mains or pipes of the street commissioners.

Penalty for using water for other than domestic purposes without agreement.

16. Every person using for other than domestic purposes any water of the street commissioners, without having previously agreed with them for a supply of water for other than domestic purposes, or any person using for any purpose other than the purposes so agreed on any water so supplied by the street commissioners, shall for every such offence forfeit and pay to the street commissioners any sum not exceeding five pounds.

Penalty for damage to public taps or waste of water.

17. Every person who shall wilfully remove, destroy, or damage any public tap, plug, or pump for the free supply of water belonging to the street commissioners, or who shall wilfully or negligently do any act or deed which shall occasion any undue waste of such water, shall for every such offence forfeit and pay to the street commissioners any sum not exceeding five pounds.

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Incoming tenant not to be liable to pay arrears of water rate.

18. In case any consumer of the water of the street commissioners shall leave the premises where such water has been supplied without paying the street commissioners the rate due from him, the street commissioners shall not be entitled to require from the next tenant of such premises the payment of arrears left unpaid by the former tenant, unless such incoming tenant shall have agreed with the former tenant to pay or exonerate him from the payment of such arrears.

Rates payable by instalments.

19. The street commissioners may, if they think fit, levy the rate which they have power to make under the sixth section of the Act of 1810 by two equal half-yearly instalments, payable on Lady-day and Michaelmas in every year, and the rates for the supply of water for domestic purposes shall be payable in advance by equal half-yearly payments on the like days.

Undisputed rates may be recovered by distress.

20. All rates and sums due to the street commissioners, and all damages, costs, and expenses by this Act directed to be paid, and the amount whereof respectively is not disputed, may be levied by distress, after the defaulter has been duly summoned; and any justice, on application by the street commissioners, may and shall issue his warrant accordingly.

Costs of distress.

21. Any justice who issues any such warrant of distress may order that the costs of the proceedings for the recovery of the rate or sum shall be paid by the person liable to pay the rate or sum, and the costs shall be ascertained by the justice, and shall be included in the warrant of distress for the recovery of the rate or sum.

Several names in one warrant.

22. Any number of names and sums may be included in any warrant of distress or notice obtained or given by the street commissioners for any of the purposes of this Act, and may be stated either in the body of the warrant or notice or in a schedule thereto.

Liability to rates not to disqualify justices.

23. No justice or judge of any county court shall be disqualified for acting in the execution of this Act by reason of his being liable to any rate or sum under this Act, or by reason of his being one of the street commissioners.

Penalties not cumulative.

24. Penalties imposed on the street commissioners by several Acts for one and the same offence shall not be cumulative, and for this purpose this Act and each of the several Acts incorporated therewith shall be deemed a separate Act.

Power to borrow on security of

25. The street commissioners from time to time, in addition to any sum which they have power to borrow on the security of the

rates authorized by the Act of 1810, may, for the purposes of the water supply, borrow on the security of the water rates by this Act authorized any sum not exceeding in the whole two thousand pounds, and may mortgage such security to secure payment of the money so borrowed with interest accordingly.

the water rate.

26. All monies borrowed by the commissioners under this Act upon the security of the water rates by this Act authorized shall be applied only to the purposes of this Act with respect to water supply.

Application of money borrowed on security of water rates.

27. So much of the Act of 1780 as enacts that the park trustees shall not have any power to get or seek for any mines or minerals in the park, or to subvert the soil thereof, shall be and the same is hereby repealed: Provided always, that it shall not be lawful to subvert the soil of any part of the park, except of that portion thereof which is situate on the northern side of the Methley branch of the Lancashire and Yorkshire Railway.

Repeal of prohibition to work mines.

28. The park trustees may from time to time sell and dispose, or may grant a lease or leases for such term or terms as they may think fit, of the coal or other minerals under the park, with full power to work the same, but not so as to subvert or break up the soil of any part of the park other than the portion excepted by this Act.

Park trustees may sell or lease coal under park.

29. It shall not be lawful for the park trustees, or for any lessee or other person or company deriving title from or through them, without the consent of the Lancashire and Yorkshire Railway Company under their common seal first had and obtained for that purpose, to get any coal or other minerals under the Lancashire and Yorkshire Railway or any of the works connected therewith, or within ten yards therefrom, nor shall the said trustees, or any lessee or other person or company claiming under them, be entitled to compensation in respect of any coal or other minerals so to be left ungotten as aforesaid: Provided that the said trustees, or any lessee or other person or company as aforesaid, may cut and make such and so many airways, headways, gateways, or water levels through the said coal or other minerals under the railway as may be requisite to enable them to ventilate, drain, and work their mines, but no such work shall be greater than eight feet wide and ten feet high, nor shall the same be cut or made under any part of the railway or works so as to injure the same or to impede the passage thereon; and the eighty-third, eighty-fourth, and eighty-fifth sections of "The Railways Clauses Consolidation Act, 1845," shall be incorporated with this Act, the word company in the said

Coals not to be got under the Lancashire and Yorkshire Railway.

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sections being interpreted to mean the Lancashire and Yorkshire Railway Company.

Mode of leasing.

30. Before any sale or lease of the coal under the park as aforesaid shall be entered into by the park trustees, twenty-one days notice at the least shall be given in some one of the newspapers circulating within the said township of Pontefract, expressing the purport of such sale or lease, and inviting any person willing to undertake the same to make proposals for such sale or lease to the park trustees, and the park trustees shall accept the proposal which, upon a view of all the circumstances, shall appear to them to be the most advantageous.

Application of monies arising from sale of coal.

31. The park trustees shall pay any monies which may accrue to them in respect of such sale or lease (after the payment of any expenses which may have been justly incurred by the said trustees in respect of such sale or lease) to the street commissioners and to the surveyors of the highways of the township of Tanshelf, in such and the same proportion as was fixed by the seventy-seventh section of the Act of 1810 for the payment by the park trustees to the street commissioners and the said surveyors of certain monies arising by virtue of the Act of 1780 and of the Act of 1810: Provided always, that the proportion of the money arising from the sale or lease of coal under the powers of this Act to be paid to the street commissioners shall be laid out by them for the purposes of the Act of 1810, and the proportion to be paid to the said surveyors shall be laid out by them in the paving, repairing, and amending the several streets and pavements within the said township of Tanshelf: Provided also, that if the proportion of such money to be paid to the street commissioners as aforesaid shall exceed in any one year the sum of three hundred pounds, then and in that event the amount of such proportion in excess of the said sum of three hundred pounds shall be applied in the first instance either in permanent improvements in widening, altering, or improving the streets, or in opening new streets or thoroughfares, or in the construction of new drainage works, or works for better supplying the said town with water, or in paying off any of the monies that may have been borrowed by virtue of the said Act of 1810 or of this Act, and any sum that may remain so unapplied shall be invested by the street commissioners in the three per centum consolidated or the three per centum reduced bank annuities, or any government security or securities, or on mortgage of real estate, or on the security of the rates of any town or corporation in England, and they shall apply the interest or dividends which may accrue thereon (in addition to the said sum of three

hundred pounds) for the general purposes of the Act of 1810 and of this Act.

Limitation of clerk's salary repealed.

32. So much of the Act of 1780 as limits the salary to be paid by the park trustees to their clerk or treasurer to a sum not exceeding five pounds per annum shall be and is hereby repealed, and the park trustees may allow to their clerk or treasurer such salary as they shall judge reasonable and proper.

General saving of rights.

33. Except as is by this Act expressly provided, this Act or anything herein contained shall not take away, lessen, or prejudice any of the estates, rights, interests, powers, privileges, or authorities of the park trustees, the street commissioners, or the surveyors of the highways of the township of Tanshelf.

Expenses of Act.

34. The costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act shall be paid by the park trustees and the street commissioners.

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