CHAPTER cii.

An Act to provide for the more effectual application of the surplus annual income of the Sheffield Town Trustees, and the investment of their Trust Funds; and for other purposes. [7th July 1873.]

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WHEREAS under and by virtue of a certain deed under the seal of Thomas de Furnival bearing date the tenth day of August one thousand two hundred and ninety-seven, and of a decree of the Commissioners of Charitable Uses made in the year one thousand six hundred and eighty-one, and of a decree and order in the High Court of Chancery bearing date respectively the fifteenth day of February one thousand eight hundred and fourteen, and the twenty-sixth day of April one thousand eight hundred and seventeen, made in a cause between His then Majesty's Attorney General informant and John Greaves and other defendants, and of three several Acts passed respectively in the sessions of Parliament held in the seventh and eighth years of the reign of King George the Fourth (chapter 33), in the first and second years of the reign of Her present Majesty (chapter 34), and in the ninth and tenth years of the reign of Her present Majesty (chapter 348), (and in this Act respectively referred to as the Act of one thousand eight hundred and twenty-seven, the Act of one thousand eight hundred and thirty-eight, and the Act of one thousand eight hundred and forty-six,) certain messuages, cottages, houses, lands, tenements, and hereditaments in the town of Sheffield in the west riding of the county of York have become vested in the several persons herein-after named upon the trusts ordered and decreed in the said decree of the Commissioners of Charitable Uses made in the year 1681, that is to say, in trust as theretofore of ancient time for the repair of a bridge within the township of Sheffield commonly called Lady Bridge, and for the cleansing and keeping in order for the common use and benefit of the inhabitants of the said town of Sheffield of a certain pond or pool called Barker's Pool, and for the repairing of causeways and highways and other charitable and public uses and purposes in

Deed dated 10th Aug. 1297.

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the said town of Sheffield, and they and the persons for the time being acting in execution of the said trusts are commonly called or known as the Sheffield Town Trustees, and in this Act are referred to as the Trustees:

And whereas a considerable portion of the rents and profits of the said messuages, cottages, houses, lands, tenements, and hereditaments have heretofore from time to time been applied and disposed of by the Trustees in making and opening up new streets or thoroughfares, and in widening and otherwise improving the existing streets or thoroughfares within the town and borough of Sheffield, and in purchasing divers lands, tenements, and hereditaments for those purposes, and have for many years ceased to be applicable or applied for the cleansing or keeping in order of the said pond or pool, which has been filled up, or in repairing the said bridge, causeways, and highways, for which other funds have been provided by law:

And whereas under the will of the late Samuel Bailey deceased, formerly one of the Trustees, and in virtue of a decree of the High Court of Chancery dated the twenty-fourth day of July one thousand eight hundred and seventy-two, and made in a suit of Wilkinson v. Barber, a large sum of money became vested in the Trustees the annual income of which is directed to be applied by them for the same objects of public utility in Sheffield, or for such other charitable purposes (not being of an ecclesiastical nature) as the general annual income of the trust funds belonging to them as trustees for the town of Sheffield are applicable, and the same, together with a certain amount of interest, is invested in the sum of ninety thousand seven hundred and seventeen pounds seventeen shillings and threepence three per cent. consols, whereof ninety thousand pounds is principal, and seven hundred and seventeen pounds seventeen shillings and threepence is interest:

And whereas the present annual income of the Trustees is four thousand five hundred and sixty pounds or thereabouts, whereof two thousand seven hundred pounds is the amount of dividends upon the said sum of ninety thousand pounds consols:

And whereas it is expedient that the Trustees should be enabled to invest their funded capital in the purchase of land to be held on the same trusts and for the same purposes as their present estates or in other defined securities, and to apply a portion of their annual income for the time being, and the accumulations thereof, in the purchase of lands and buildings for recreation grounds, and for widening and improving existing streets or roads, and for making or opening up new streets or roads, and for such other public purposes of their trust as they may think proper, and that they should be

empowered to lay out and invest their said income and accumulations at interest from time to time : A.D. 1873.

And whereas it is expedient that the Trustees should be authorised to raise money by mortgage or debenture on the credit of their trust estates, and from time to time to sell or let on lease any surplus lands or buildings purchased by them under the powers of this Act, and to accept surrenders and grant renewals of leases, and to apply the moneys raised by means of any such mortgages or sales for the same purposes as their annual income :

And whereas it is expedient that provision should be made for laying out such lands as may be purchased by the Trustees for recreation grounds, and for the lighting, supplying with water, regulation, and maintenance thereof, and for transferring the same to the corporation of Sheffield, in perpetuity or for a term of years, and either gratuitously or on terms to be agreed on, for the use of the public :

And whereas it was by the said decree of the Commissioners of Charitable Uses made in the year 1681 ordered and decreed that when any of the Trustees shall be dead the survivors shall convey over the premises to the use of such survivors, and also to the use of such other persons inhabitants within the said town of Sheffield as shall from time to time be in that behalf nominated and appointed by the greater part of the inhabitants within the said town of Sheffield ; and by the said order of the Court of Chancery dated the 26th day of April 1817, it was declared that the right of election of new Trustees is vested in the inhabitants of the town of Sheffield being freeholders :

And whereas the parish of Sheffield, which is co-extensive with the borough of Sheffield, consists of the township of Sheffield and several other townships, and, in acting under the said decree of the Commissioners of Charitable Uses and order of the Court of Chancery it has been hitherto considered requisite for a person to act as a Trustee or to vote at an election for a Trustee that he should be possessed of a freehold in the township of Sheffield and should reside in or occupy a rateable tenement within the said township; and it was by the said Act of one thousand eight hundred and forty-six enacted that when any Trustee shall cease to reside within twenty miles of the town hall of Sheffield, or shall for the space of eighteen consecutive calendar months be absent from all the meetings of the Trustees held during that period, he shall cease to be a Trustee, and a new Trustee shall be elected in his place: and it is expedient that the qualification of a Trustee and of persons to vote in the election of Trustees should be fixed and defined, and that such qualification should be the beneficial possession of a free-

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hold in the township of Sheffield and residence in or the occupation of a rateable tenement within the parish of Sheffield, and that absence from the meetings of the Trustees for eighteen consecutive calendar months should not occasion a vacancy in the trust when such absence has been caused in whole or in part by illness:

And whereas it was by the Act of one thousand eight hundred and thirty-eight and the Act of one thousand eight hundred and forty-six respectively enacted that deeds and other instruments, matters, and things made or done for the purpose of effectually carrying into execution or otherwise incident to or arising out of those Acts, and executed or done by a majority (not being less than seven in number) of the Trustees, should have the same effect in law as if executed or done by all the Trustees; and it is expedient that similar provisions should be enacted with reference to all deeds and other instruments, matters, and things to be executed or done by the Trustees:

And whereas Samuel Roberts, John Carr, Robert Leader, Thomas Jessop, Sir John Brown, Mark Firth, William Fisher, James Willis Dixon, John Webster, John Jobson Smith, Thomas Moore, and Frederick Thorpe Mappin are the present Trustees; and the said Samuel Roberts is the present collector and treasurer of the Trustees:

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 of the Commons, in this present Parliament assembled, and by their authority, as follows:

Short title.

1. This Act may be cited as "The Sheffield Town Trustees Act, 1873."

Provisions of general Acts herein named incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," except the provisions thereof with respect to the entry upon, purchase, and taking of lands otherwise than by agreement, and the provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners (except section 84), are (except where expressly varied by this Act) incorporated with and form part of this Act, and the Acts and parts of Acts so incorporated are in this Act referred to as the incorporated Acts.

Interpretation of terms.

3. In construing this Act the following words and expressions in the incorporated Acts and in this Act have the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction; that is to say,

In the incorporated Acts,—

The expression "promoters of the undertaking" or "the commissioners" means the Trustees:

In this Act,—

The expression "surplus annual income" means that part of the annual income of the Trustees, from whatever source derived, which remains after paying or providing for the interest upon mortgages, the sinking fund, and the discharge of their current expenses and debts (except mortgage debts), for the time being:

The expression "surplus lands" means any lands, buildings, tenements, or hereditaments purchased under the powers of this Act out of the surplus annual income of the Trustees or accumulations thereof, or out of money raised by mortgage or debenture or by the sale of surplus lands under the powers of this Act, and not required for recreation grounds or for widening or improving any street or road or making or opening up any new street or road.

Power to purchase lands.

4. The Trustees may from time to time, out of their surplus annual income and the accumulations thereof, and the moneys produced by the sale or conversion of any shares, stocks, or securities in or upon which such surplus annual income and accumulations or any part thereof may have been or may be laid out or invested, and out of any moneys raised by mortgage or by the sale of surplus land under the provisions of this Act, purchase any lands or buildings within the parish of Sheffield for recreation grounds or any other of the purposes in this Act mentioned.

Appropriation of lands purchased.

5. The Trustees may appropriate as public recreation grounds, or for widening existing streets or roads, or for making or opening up new streets or roads, or for such other purposes of their trust as they may think proper, any land or buildings which may be purchased by them under the powers contained in the last preceding section.

Powers of Trustees with respect to recreation grounds.

6. The Trustees may lay out, plant, and form into ornamental grounds such of the lands purchased by them under the powers of this Act as they may appropriate for recreation grounds, and may construct thereon such roads and ways for driving, riding, and walking, and such lakes, ponds, and other works as they think fit, and may appropriate particular portions of the said grounds for garden and pleasure grounds, and for the exercise of athletic sports and other purposes of a like description, and may erect and place such suitable buildings, baths, bathing places, and conveniences in the recreation grounds as they think proper, and may from time to time make such alterations in the laying out and appropriation

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of the said grounds and the buildings therein as they consider desirable, and may let the herbage of the recreation grounds or any part thereof.

Appointment of officers.

7. The Trustees may from time to time appoint and remove such officers, servants, and workmen to be employed in and about the recreation grounds as they think proper, and may fix the salaries and wages of the persons so employed.

Powers to make byelaws.

8. The Trustees may from time to time make byelaws for the regulation of their officers, servants, and workmen employed in and about the recreation grounds, and for the management and regulation of the various parts of the recreation grounds, and the buildings, baths, bathing places, and conveniences therein, and for the protection and preservation of the same and the property therein respectively, and for the maintenance of order and prohibition or suppression of acts or practices causing nuisance or annoyance to persons frequenting or using the recreation grounds, and for keeping for particular games or for promenades or rides or drives any parts thereof set apart for those purposes, or for preventing the sale on the recreation ground of any intoxicating liquor, and for preventing the use of the recreation ground or any part thereof for any purpose other than that for which it is for the time being appropriated by the byelaws of the trustees, and generally for promoting the rational enjoyment of the recreation grounds and all the buildings, baths, bathing places, and conveniences therein by all persons entitled to the use of the same; and the Trustees may from time to time alter or repeal any such bye-laws, and make others.

Fines for breach of byelaws.

9. It shall be lawful for the Trustees to impose such reasonable fines or penalties upon all persons offending against any byelaws made under the powers of this Act as they think fit, not exceeding five pounds for any one offence.

Fines or penalties may be mitigated.

10. All byelaws made under the provisions of this Act shall be so framed as to allow the justice before whom any fine or penalty imposed thereby may be sought to be recovered to order a part only of such fine or penalty to be paid, if such justice shall think fit.

How byelaws to be approved and confirmed.

11. No byelaw made under the provisions of this Act shall be of any authority if it be repugnant to the laws of the kingdom or to the provisions of this Act, nor until it has been approved of by the town council of the borough of Sheffield, and confirmed by the justices of the peace for the west riding of the county of York in quarter sessions assembled; and a copy of such byelaws, certified by the clerk of the peace for the said west riding, shall be conclusive evidence of such approval and confirmation in all courts of law and elsewhere.

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Byelaws relating to recreation grounds to be exhibited, and no fine or penalty to be recoverable for breach of byelaw not exhibited.

12. Copies of all byelaws made by the Trustees and in force for the time being, with the amount of the fine or penalty to be incurred by the breach of each byelaw, shall be painted on boards or printed on paper and pasted or otherwise affixed to boards, which shall be put up in such conspicuous parts of the recreation grounds and in such of the buildings therein as the Trustees from time to time may appoint, and no fine or penalty shall be recoverable for the breach of any byelaw which shall not be so exhibited in at least three different parts of the recreation grounds or the buildings therein accessible to the public.

Copies of byelaws to be renewed when necessary, and penalty for defacing boards used for exhibiting same.

13. All copies of byelaws by this Act required to be exhibited shall be renewed or replaced as often as the same or any parts thereof are obliterated, lost, or destroyed, and if any person shall pull down or injure any board put up or affixed as required by this Act for the purpose of publishing any byelaw or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

For recovery of penalties.

14. All penalties incurred by the breach of any byelaw under the provisions of this Act shall be recoverable as penalties are directed to be recovered by the Act eleven and twelve Victoria, chapter forty-three, and as soon as the same shall be paid or levied shall be paid to the Trustees, their clerk or treasurer, to be applied in and towards the expenses of maintaining and improving the recreation grounds and the fences thereof.

As to police superintendence, lighting, supplying with water, &c. recreation grounds.

15. The Trustees from time to time may enter into contracts with the corporation of Sheffield, the Sheffield Waterworks Company, and the Sheffield United Gas Company, or any of them, with respect to the police superintendence, watching, lighting, and supplying with water the said recreation grounds, and the buildings, baths, lakes, and waters therein.

Power to let recreation grounds to the corporation.

16. The Trustees may demise or let the recreation grounds or any of them or any part or parts thereof respectively to the corporation of Sheffield, for public purposes, and the corporation may take and hold the same for such term or terms of years and upon such covenants and conditions as may be agreed upon between them and the Trustees.

Provisions of Act as to recreation grounds to apply to corporation after transfer to them.

17. During such time as any recreation grounds may be in the possession or occupation of the corporation of Sheffield under the powers of this Act, the provisions of this Act with respect to the recreation grounds shall, so far as relates to the recreation grounds so in their possession or occupation, apply to the corporation of Sheffield as if that corporation had been mentioned or referred to in

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such provisions instead of the Trustees, and documents which require to be signed by the Trustees shall be valid if sealed with the common seal of the borough of Sheffield, and any act required to be done by the clerk to the Trustees may be done by the town clerk.

Power to invest capital fund.

18. The Trustees may from time to time sell, call in, or convert into money the said sum of 90,000*l.* consols, or any part thereof, and all or any stocks, mortgages, or securities in or upon which the same or any other of their capital or principal funds or moneys or any of their surplus annual income may for the time being be invested, and may from time to time lay out and invest the moneys produced by any such sale, calling in, or conversion, or so much thereof as may not be required for purposes by this Act authorised, or other purposes of their trust, in some one or more of the following ways; that is to say,

In the purchase of Exchequer Bills or of stock in any of the Government funds of Great Britain or in Indian Government securities:

On mortgage of freehold or copyhold estates or lands in England, or of leaseholds in England held for terms of which not less than sixty years remain unexpired at the time of investment:

On mortgages or debentures of any railway or other public company incorporated by Act of Parliament paying dividends on their ordinary stock:

In the purchase (with the consent of the Charity Commissioners for England) of lands, tenements, and hereditaments, to be held by the Trustees on the same trusts as the estates vested in them at the time of the passing of this Act.

Power to sell or let surplus lands.

19. The Trustees from time to time may sell or let on lease for building or other purposes any of their surplus lands.

Town to retain surplus lands as trust estate.

20. The Trustees may, if they think fit, retain and hold any part or parts of their surplus lands as part of their permanent trust estate, and in such case a sum of money representing the value thereof, and approved by the Charity Commissioners as being the value thereof, shall be paid out of the said sum of 90,000*l.* consols, or any other capital funds of the trust, to the credit of the income account of the Trustees.

Power to let other lands belonging to the Trustees.

21. The Trustees may let on lease for building or other purposes any lands or buildings belonging to them at the time of the passing of this Act, or which may hereafter, with the consent of the Charity Commissioners, be purchased by them under the powers of this Act.

As to term of leases, rent, covenants, &c.

22. Any lease granted by the Trustees under the powers of this Act may be for such term not exceeding twenty-one years if not a

lease for building purposes, and not exceeding ninety-nine years if a lease for building purposes, and for such rent and may contain such covenants and conditions as the Trustees think fit.

As to surrenders and renewals.

23. The Trustees may from time to time accept surrenders and grant renewals of any leases granted by them whether before or after the passing of this Act.

Power to borrow on mortgage.

24. The Trustees from time to time may borrow on mortgage any sum or sums of money not exceeding in the whole thirty thousand pounds.

Moneys borrowed on mortgage to be paid off by means of a sinking fund.

28. In order to discharge the principal moneys borrowed on mortgage as aforesaid, the Trustees shall in every year appropriate and set apart out of their annual income a sum of five hundred pounds at the least as a sinking fund, to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer bills or other Government securities, and to be increased by way of accumulation in the way of compound interest, until the same respectively shall be of sufficient amount to pay off all the principal debts to which such sinking fund shall be applicable, when the sinking fund shall be applied in paying off the same: Provided always, that if at any time or times previously any of the said principal debts shall become payable, and the Trustees think that the same ought to be paid off out of the sinking fund, they may then apply the sinking fund, or a competent part thereof, in paying off those principal debts.

Power to re-borrow.

26. Whenever the Trustees pay off otherwise than by the sinking fund any sum borrowed by them on mortgage under the powers of this Act, they may again borrow on mortgage the amount so paid off, or any part thereof, and so from time to time.

Securities to be signed by seven Trustees, and to be according to form in schedule of Act.

27. The deed whereby any mortgage shall be created under the powers of this Act shall be signed by a majority not being less than seven of the Trustees, and shall be according to the form set forth in the schedule to this Act or to the like effect, and every transfer of a mortgage shall be in the form set forth in the same schedule, or to the like effect.

Receiver.

28. The holders of mortgages under this Act may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of principal the amount owing to the holders of mortgages by whom the application for a receiver is made shall be not less than three thousand pounds in the whole.

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Qualification for Trustee or voter.

29. The qualification for a Trustee, or for a person to vote in the election of a Trustee, is the possession beneficially of a freehold estate or interest in lands or tenements situate in the township of Sheffield and residence in or the occupation of a rateable tenement in the parish of Sheffield.

Absence from Trustees' meetings on account of illness not to disqualify Trustee.

30. In calculating the time during which any Trustee has been absent from the meetings of the Trustees, any period during which his absence shall have been occasioned by illness shall not be computed, if his inability to attend the meetings upon that account has been duly certified by a medical practitioner to the collector or clerk of the Trustees, and the provision in the Act of one thousand eight hundred and forty-six which vacates the place of a Trustee who has been absent for eighteen consecutive months from all the meetings of the Trustees held during that period shall only have effect when the absence has continued for eighteen consecutive months beyond the time during which the Trustee has been absent on account of illness certified as aforesaid.

Certain provisions of this Act and the Act of 1846 subject to alteration by Court of Chancery.

31. The provisions contained in the two last preceding sections and in the twelfth section of the Act of 1846 shall be subject to alteration from time to time by the Court of Chancery, upon the application of the Trustees by petition in a summary way, in the exercise of its ordinary jurisdiction.

Acts of majority of Trustees valid.

32. All contracts, agreements, and other acts, deeds, matters, and things whatsoever made, entered into, executed, or done or ordered to be done by the Trustees and relating to their property or any of the purposes of their trust which shall be made, entered into, executed, or done, or ordered to be done by a majority of the Trustees (such majority not consisting of less than seven persons), shall be of the same force, effect, and validity in law as if the same had been made, entered into, executed, or done or ordered to be done by all the Trustees.

Expenses of Act.

33. All the costs, charges, and expenses of and incident to the passing of this Act, or preparatory thereto, shall be paid by the Trustees out of any moneys in their hands.

SCHEDULE to which the foregoing Act refers.

Form of Mortgage.

No.

By virtue of the Sheffield Town Trustees Act, 1873, we, the Sheffield Town Trustees, authorised by and under the said Act, in consideration of the sum of £ to us paid by of do grant and assign unto the said his executors, administrators, and assigns, such proportion of the rents and profits arising out of all and singular the lands, tenements, and hereditaments of the said Trustees, and of all interest, dividends, and other annual income for the time being of the said Trustees as the said sum of £ doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said rents, profits, interest, dividends, and annual income under the power of the said Act, to hold unto the said his executors, administrators, and assigns, until the said sum of £ together with interest for the same after the rate of £ per centum per annum from the day of the date of these presents, shall be fully paid and satisfied [*the said principal sum to be repaid at the end of years from the date hereof].

Dated this day of 18

**Note.*—These words to be added if the mortgage is to be paid off at a fixed time.

Form of Transfer of Mortgage.

I [*or* we], of in consideration of the sum of £ paid by of do hereby transfer to the said his executors, administrators, and assigns, a certain mortgage No. of the rents, profits, and annual income arising out of various trust estates and property made by the Sheffield Town Trustees under the powers of the Sheffield Town

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Trustees Act, 1873, and dated the day of 18 for securing the sum of £ now vested in me [*or* us], and all my [*or* our] estate, right, title, and interest therein, and all or any right, estate, and interest in and to the money thereby secured and in the future accruing therein, and in and to the rents and profits and all other annual income thereby granted.

Dated this day of 18 .

Note.—If the transfer be by endorsement, the words "a certain mortgage, &c." or to and inclusive of the words "for securing the sum of £ and interest" should be omitted and the words "within security" inserted in their place.

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