



CHAPTER cxxvii.

An Act to enable the Corporation of London to acquire and hold and manage as open spaces Lands in the neighbourhood of London; and for other purposes. [4th July 1878.] A.D. 1878.

WHEREAS by the Metage on Grain (Port of London) Act, 1872, the mayor and commonalty and citizens of the city of London, in the said Act and hereinafter called the Corporation, were empowered to demand and receive in respect of all grain brought into the port of London for sale a certain fixed duty therein particularly specified, and to be called the city of London grain duty, and it was enacted that such duty should, subject to the provisions of that Act, be held by the Corporation for the preservation of open spaces in the neighbourhood of London not within the metropolis as defined by the Metropolis Management Act, 1855, and it was thereby enacted that, for the purpose of the preservation of any such open space, the Corporation might from time to time borrow at interest on the credit of the net proceeds of the city of London grain duty and of their estates and revenues any money not exceeding in the whole ninety-nine thousand pounds: 35 & 36 Vict. c. c.

And whereas by the City of London (Various Powers) Act, 1877, it was enacted that for the purpose of the preservation of any open spaces in the neighbourhood of London, within the meaning of the Metage on Grain (Port of London) Act, 1872, the Corporation might from time to time borrow, in addition to the said sum of ninety-nine thousand pounds, such moneys not exceeding the sum of fifty thousand pounds as they might require, and upon the same security and subject to the same terms and conditions as though the same were moneys authorised to be borrowed by the last-mentioned Act for a like purpose: 40 & 41 Vict. c. vii.

And whereas by the Metropolitan Open Spaces Act, 1877, certain powers of acquiring and holding the ownership of and the right to enter upon and use and enjoy certain open spaces are vested in the Metropolitan Board of Works, and it was thereby enacted that 40 & 41 Vict. c. 45.

[Local.-127.]

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[Ch. cxxvii.] *Corporation of London (Open Spaces) Act, 1878.* [41 & 42 Vict.]

A.D. 1878. — the powers by that Act conferred upon the Metropolitan Board of Works should in the city of London be exercised by the mayor, aldermen, and commons of the said city, who should defray all the expenses caused by and connected with the execution of such powers :

And whereas it is expedient that the Corporation on the one part, and the dean and chapter of the cathedral church of Saint Paul, in the city of London, on the other part, be empowered to agree for the acquisition and management by the Corporation as an open space of the churchyard of the said cathedral church under the provisions of the Metropolitan Open Spaces Act, 1877 :

40 & 41 Vict.
c. 45.

And whereas it is desirable that the Corporation, with a view to the preservation of open spaces in the neighbourhood of London, should be empowered to purchase or acquire by gift, and hold without license in mortmain, any common or commonable lands, rights of common, and tenements having rights of common within the distance of twenty-five miles from the city of London, and not within the metropolis as defined as aforesaid, and to apply the moneys herein-after mentioned for the purposes aforesaid, and in exercise of the powers vested in them by the Metropolitan Open Spaces Act, 1877, and should be empowered to borrow further moneys for the purposes aforesaid on the credit of the city of London grain duty, and to execute such powers as are herein-after contained for the better management of the lands to be so acquired and managed by them as aforesaid :

40 & 41 Vict.
c. 45.

And whereas the objects aforesaid cannot be attained without the sanction 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 ; (that is to say,)

Short title.

1. This Act may be cited as the Corporation of London (Open Spaces) Act, 1878.

Interpretation of terms.

2. In this Act—

“The Corporation” means the mayor and commonalty and citizens of the city of London, and the powers conferred upon them by this Act may be exercised by the mayor, aldermen, and commons of the said city in common council assembled :

“Commons, commonable lands, and open spaces” include town greens, village greens, wastes of forests, or manors, and all common or other land within the definition contained in

section 11 of the General Inclosure Act, 1845 (8 & 9 Vict. A.D. 1878. c. 118.), not being parcel of that portion of Waltham Forest called Epping Forest.

3. The Corporation on the one hand, and the dean and chapter of the cathedral church of Saint Paul, London, on the other hand, may make and carry into effect an agreement for the acquisition and management by the Corporation of the churchyard of Saint Paul as an open space.

Powers as to Saint Paul's churchyard.

4. The Corporation may acquire by purchase, gift, or otherwise, the freehold and inheritance of or any other estate or interest in any common, commonable land, or open space not within the metropolis as defined by the Metropolis Management Act, 1855, but within twenty-five miles from the part of the boundary of the city of London which is nearest to such common, commonable land, or open space, and all or any common and other rights, powers, estates, and interests in or over any common, commonable land, or open space situate as aforesaid, and also any lands or tenements having annexed thereto any common or other right or interest in or over any such common, commonable land, or open space, and the mines, minerals, and timber under and on any such common, commonable land, open space, lands, or tenements respectively, or any estate or interest in the same respectively, and also may enter into any agreement with any person or persons for the assertion or protection of any common or other rights or interests in or over any lands within the limits aforesaid, for the purpose of preserving such lands as open spaces.

Corporation may acquire lands and rights in certain common lands. 18 & 19 Vict. c. 120.

5. All lands and rights so purchased or acquired by and conveyed to the Corporation shall be vested in and held by them and their successors for ever, subject to the provisions of this Act, in mortmain in perpetuity, and all persons interested in any such lands or rights may convey, give, and devise the same accordingly, any statute or rule of law to the contrary notwithstanding, and such of the said lands as consist of commons, commonable lands, and open spaces shall, subject to the provisions of this Act, be held by the Corporation as open spaces for ever, and all rents, profits, and revenues arising therefrom shall be carried to the credit of the city of London grain duty.

Purchased lands to be held in mortmain as open spaces.

6. The Corporation shall at all times keep all commons, commonable lands, and open spaces acquired or to be acquired by them as aforesaid uninclosed and unbuilt upon (except as is herein otherwise provided) as open spaces for the recreation and enjoyment of the public, subject to the provisions of this Act, and shall not,

Corporation to keep open spaces uninclosed.

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A.D. 1878. — except as herein provided, inclose or build upon, and shall by all lawful means prevent, resist, and abate all inclosures, encroachments, and buildings upon, and all attempts to inclose, encroach, and build upon the same or any part thereof, or to appropriate or use the same, or the soil, timber, or roads thereof, or any part thereof, for any purpose inconsistent with this Act.

Corporation to preserve natural aspect of commons, &c.

7. The Corporation shall at all times, as far as possible, preserve the natural aspect of the said commons, commonable lands, and open spaces, and shall protect the timber and other trees, pollards, shrubs, underwood, heather, gorse, turf, and herbage growing thereon, and, subject to the provisions of this Act, shall prevent all persons from felling, cutting, lopping, or injuring the same, and from digging the gravel and clay, loam, and soil thereof.

Not to sell, &c. except as provided by Act.

8. The Corporation shall not, except as herein-after provided, sell or demise or otherwise alienate any part of the said commons, commonable lands, or open spaces, or concur in any sale or demise or other alienation thereof.

Corporation empowered to borrow and apply moneys for open spaces. 40 & 41 Vict. c. vii. 35 & 36 Vict. c. c. 40 & 41 Vict. c. vii.

9. For any of the purposes authorised by the City of London (Various Powers) Act, 1877, or this Act, the Corporation may borrow at interest on the credit of the net proceeds of the city of London grain duty, and of their estates and revenues, beyond the sums which they are authorised to borrow on such credit by the Metage on Grain (Port of London) Act, 1872, and the City of London (Various Powers) Act, 1877, any sum or sums of money, not exceeding in the whole fifty thousand pounds, and may apply the said duty and the moneys borrowed under the authority of this Act and of the said Acts, and any other moneys for the time being belonging to them or under their control (except moneys held by them upon trust for other purposes), for any of the purposes authorised by the Act of 1877 or by this Act, or in execution of the powers vested in them by the Metropolitan Open Spaces Act, 1877.

40 & 41 Vict. c. 45.

Powers of Corporation as to all lands held or managed by them. To manage trees and underwood.

10. As regards all the lands to be acquired or managed by the Corporation as open spaces under the powers of this Act or of any of the said Acts, the Corporation shall have power—

(a.) To fell, cut, lop, and manage in due course the timber and other trees, pollards, and underwoods standing and growing thereon, and to sell and dispose of such timber cuttings and loppings, and to receive and apply the proceeds of the sale thereof towards the expenses of managing the open spaces in or in any part of which such timber and other trees, pollards, and underwood were respectively standing or growing:

- (b.) To plant trees and shrubs for shelter or ornament upon any of the said lands, either in addition to or in substitution for any standing or growing thereon, and in substitution for such as may from time to time die or decay, but not so as by any additional planting materially to take away or hinder the exercise of any rights of common of pasture, or to alter unnecessarily the natural aspect of the lands : A.D. 1878.
Plant.
- (c.) To dig such gravel, sand, and loam and turf therein as shall be required for the due management of the lands from which such gravel, sand, loam, or turf shall be dug or taken, but not for sale : Dig gravel,
&c.
- (d.) To drain, level, and improve the said lands respectively, so far as in their judgment may be necessary or desirable for the proper management and improvement of the same : Drain.
- (e.) To abate and take proceedings for the abatement of nuisances on or affecting the said lands : Abate
nuisances. X
- (f.) To make inclosures from time to time of parts of the said lands for the better attainment of the purposes of this Act, and for such periods only as shall be sufficient for the attainment thereof : Make temporary
inclosures.
- (g.) To maintain existing and to make and maintain new roads, footpaths, ways, ponds, and watercourses on and over the said lands, and to enlarge, clean out, and maintain or to fill up streams, watercourses, ponds, and springs therein, and to dedicate roads thereon to the public, subject to the provisions of any Act or Acts of Parliament affecting highways for the time being in force, and to afford facilities and grant rights of road over the said lands for access to inclosures, in such cases and upon such terms as in the judgment of the Corporation shall be necessary or desirable : Make roads,
&c.
- (h.) To acquire or erect such lodges and other suitable buildings on the said lands as in the judgment of the Corporation shall be necessary or convenient for the same as places of recreation, and for the use of the reeves or other officers of the Corporation engaged in the preservation and management of the said lands, and from time to time to repair the same and all other buildings upon the said lands which from time to time shall be vested in or be under the control of the Corporation : Build lodges.
&c.
- (i.) To provide and maintain such pounds as the Corporation shall think necessary for the impounding of cattle and other animals trespassing on any of the said lands, or damage feasant thereon, either by erecting such pounds on the said Provide
pounds.

A.D. 1878.

lands or by making arrangements for the joint or separate use of any convenient pounds already existing, and every pound so provided or used shall, as regards cattle and animals pounded therein by virtue of the powers herein contained, be deemed to be a common pound :

Make rules as to commoning.

(k.) To make such rules and orders relating to the exercise of the right of commoning upon any of the said lands, and the marking of the animals commoning thereon, as shall in the judgment of the Corporation be desirable for the general benefit of the commoners, and for the better preservation and management of the lands as open spaces :

Compel removal of beasts improperly commoning.

(l.) To authorise the reeves, assistant reeves, keepers, and other officers of the Corporation to remove from the said lands—

All cattle and other animals suffering from any contagious or infectious disease, or not commonable thereon, or not allowed by the Corporation in pursuance of the powers given to them by this Act to common thereon ;

All commonable animals belonging to persons not entitled to depasture their animals on the said lands or overburdening the said lands beyond the rights of such persons ;

All commonable animals not marked with any mark with which they ought to be marked, or as to which any lawful directions of the Corporation have not been complied with ;

All animals commoning on the said lands at any time or place during or in which commoning is unlawful ;

and to impound all cattle and animals so removed in some or one of the pounds provided and used by the Corporation, in like manner and subject to the same rules under which cattle damage feasant on the land of any person may be impounded by law :

Receive fees for marking, &c.

(m.) To authorise the reeves, assistant reeves, and other officers of the Corporation to receive all fees to be paid for marking such of the commonable animals of the commoners as ought to be marked, and all fees and payments to be made in respect of cattle and animals pounded by them, and to account for the same to the Corporation :

Superintend commonable animals.

(n.) To commit to the reeves and assistant reeves, keepers, or other officers subject to the orders of the Corporation the general care and superintendence of the commonable animals in the said lands, and generally to prescribe and regulate the duties of their said officers :

- (o.) To appoint such reeves, assistant reeves, keepers, bailiffs, and other officers for the due preservation and management of the said lands, and for the prevention of nuisances thereon, and at such salaries or wages as the Corporation may think fit: A.D. 1878.
Appoint keepers, &c.
- (p.) To provide for the payment of the reeves, assistant reeves, keepers, and other officers engaged in the care of the lands by way of fixed salary, payable at such times as the Corporation shall think fit, or by allowing them to retain all or any part of the fees and moneys received for marking commonable animals, and for animals pounded by them, or partly in one and partly in another of such ways: Pay reeves, keepers, &c.
- (q.) To grant licenses to shoot over and to fish in the waters on any of the said lands to such persons, and subject to such terms, conditions, and regulations, as the Corporation may think fit: Grant licenses to shoot and fish.
- (r.) To appropriate such parts of any of the said lands as in the judgment of the Corporation shall be sufficient for the use of the inhabitants of the parish or of any two or more of the parishes in which the lands or any part thereof shall be situate for playing cricket and other sports: Appropriate ground for cricket, &c.
- (s.) To grant licenses to or permit any volunteer regiment or corps to drill or practise or shoot, and either with or without the erection of butts, at such places on the said lands, and at such times and upon and subject to such terms, conditions, and regulations, as the Corporation may think fit and safe, having due regard to the enjoyment of the said lands as open spaces for the recreation of the public, and of the rights of common and other rights for the time being subsisting therein. Permit drilling, &c. by volunteers.

11. The Corporation may from time to time, subject to the provisions of this Act, make and alter any byelaws relating to all of the said lands, and for all or any of the following purposes; Corporation may make and alter byelaws.

...ing fires and nuisances, and for the preservation of the said lands:

... removing therefrom gipsies, hawkers, beggars, &c.

...ing bird-catching, bird-trapping, the taking of birds, the shooting or chasing of birds, game, or fishing in the waters thereof, and for the preservation of birds, game, or other animals resorting thereat.

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For preventing the digging or taking thereon or therefrom of sods, bog-earth, gravel, clay, or other substances, except in the exercise of any subsisting rights during the subsistence thereof, and until such rights shall be compounded for and compensated, and in the meantime for regulating the exercise of such rights :

For preventing the cutting, felling, or injuring of timber or other trees, gorse, heather, shrubs, brushwood, or other plants growing thereon, except cutting in the exercise of any subsisting rights of estovers, topping or lopping, or assignments for fuel or wood during the subsistence thereof, and until such rights shall be compounded for and compensated, and in the meantime for regulating the exercise of such rights :

For preventing injury to or the defacing or removing of fences, notice boards, or other things put up by the Corporation thereon, and the disfigurement of fences or trees by the posting or painting of bills, placards, or notices thereon or otherwise :

For preventing or regulating the placing or continuance thereon of any rubbish, manure, or other offensive or unsightly things :

For prescribing the times, places, and conditions at and under which (regard being had to the preservation of the said lands and the timber and other vegetation thereon, and the enjoyment of all the persons interested therein of their respective rights) persons resorting to the said lands for recreation and amusement shall from time to time be allowed to carry on particular sports and games, and for regulating or preventing assemblages of persons on the said lands for purposes other than recreation or amusement, or which tend to interfere with the objects aforesaid :

For regulating the use of and the letting and hiring of horses, asses, and other animals, and of carriages and other vehicles upon the said lands :

For regulating the use of any places set apart for cricket or other sports, and the shooting over the said lands in the waters thereof, and the drill practice or sports of a volunteer regiment or corps :

Generally for preventing or restraining any use of the said lands, or anything tending to the improvement thereof, or to the defeat of the objects of this Act :

For imposing penalties for breaches of the laws not exceeding for any one offence the sum of five pounds, and for exceeding for

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a continuing offence a daily penalty of five pounds, so as every byelaw imposing a penalty be framed in such manner as to allow the infliction of less than the maximum penalty. A.D. 1878.

12. The byelaws of the Corporation, or any alteration thereof, shall not have any force unless and until they are allowed by the First Commissioner of Her Majesty's Works and Public Buildings for the time being, and they shall not be allowed unless notice of the intention to apply for allowance thereof has been published by the Corporation in two newspapers circulating in the county or counties in which the lands to which they relate are situate and in the "London Gazette" one month at least before the application for the allowance thereof, and unless during one month at least before such application a copy of the byelaws to be submitted for allowance shall have been kept at the office of the town clerk of the city of London open for inspection at all reasonable times by any person desiring to inspect the same, and who shall be allowed to inspect the same and take copies thereof and extracts therefrom free from charge.

Byelaws to be allowed by First Commissioner of Works.

13. The Corporation shall cause all such byelaws, when allowed, to be printed with the form of allowance, and printed copies thereof to be sold at a price not exceeding sixpence for every copy to all persons desiring to buy the same.

Byelaws to be printed for sale.

14. Any printed copy of byelaws authenticated by the signature of the said town clerk shall be conclusive evidence of the existence and contents of such byelaws, and of the due making and allowance thereof, without proof of such signature or of any other thing.

Printed copies to be evidence.

15. Copies of the byelaws for the time being in force shall be put up by the Corporation upon some conspicuous part or parts of the lands to which the same relate, in such manner as the Corporation may deem best calculated to give information to the persons using the said lands.

Copies of byelaws to be posted up.

16. Every reeve, assistant reeve, bailiff, and keeper and other officer appointed by the Corporation from time to time for securing the better execution of their said powers, regulations, and byelaws shall have all such powers and privileges and be liable to all such duties and responsibilities as any police constable has and is liable to within the police district in which the common, commonable land, or open space, in relation to all or any part whereof such reeve or other officer is appointed, is situate: Provided always, that no such officer shall act as a police constable unless he be in uniform, or, if in plain clothes, be provided with his warrant.

Power of Reeves and other officers.

[Ch. cxxvii.] Corporation of London (Open Spaces) Act, 1878. [41 & 42 Vict.]:

A.D. 1878.

Penalty for
assaulting
officers.

40 & 41 Vict.
c. vii.

17. If any person shall assault or resist, or aid or incite any person to assault or resist, any constable, reeve, assistant reeve, bailiff, keeper, or other officer of the Corporation or other person in the execution of his duty or the lawful exercise of any authority contained in this Act or the Metropolitan Open Spaces Act, 1877, or in any regulation or byelaw of the Corporation made in pursuance of the said Acts, he shall for every such offence be liable on summary conviction to a penalty not exceeding five pounds, without prejudice to any other proceeding or remedy against him for the same act.

Open spaces
to be places
of public
resort.

18. For the purposes of enactments empowering the police all commons, commonable lands, and open spaces acquired or managed by the Corporation shall be deemed places of public resort, and the powers and duties of the metropolitan police and of the police of the counties in which the said commons, commonable lands, and open spaces are respectively situate in relation to public safety and the preservation of order and protection of property shall extend to the said commons, commonable lands, and open spaces, but nothing herein contained shall extend the power of levying police rates upon any person or property not at present liable or chargeable to or with such rates; and for the services of the constables of the metropolitan and county police the Corporation may contribute such sums as shall be agreed upon with the Commissioners of Police of the metropolis and the justices of the respective counties in which the said commons, commonable lands, and open spaces are situate, or as, failing agreement, shall be settled by the First Commissioner of Her Majesty's Works and Public Buildings.

For securing
transient
offenders.

40 & 41 Vict.
c. vii.

19. Any constable or any officer of the Corporation, and all persons called by such constable or officer to his assistance, may without warrant seize and detain any person offending or having offended against this Act, or against any orders or any byelaw of the Corporation lawfully made under this Act or the said Metropolitan Open Spaces Act, 1877, and whose name or address is unknown to such constable or officer, and may convey such offender with all convenient despatch before a justice, to be dealt with according to law.

Proceedings
for summary
convictions.

20. Proceedings for the summary conviction of any persons offending against the provisions herein contained, or any byelaw of the Corporation made as aforesaid, or any order to be made by justices under this Act or under any such byelaw, or for the recovery of any penalty, shall be taken according to the provisions of the Act of the session of the eleventh and twelfth years of Her

Majesty's reign (chapter forty-three), "to facilitate the performance of the duties of the justices of the peace out of session within England and Wales in respect to Summary Convictions and Orders," and section one hundred and ten of the Act of the session of the twenty-fourth and twenty-fifth of Her Majesty's reign (chapter ninety-six), "to consolidate and amend the statute laws of England and Ireland relating to Larceny and other similar offences," shall authorise and apply to appeals in respect of such summary conviction and orders.

A.D. 1878.

21. All pecuniary penalties, expenses, costs, and other moneys recovered by the Corporation shall be paid to the Corporation, notwithstanding anything in the Metropolitan Police Act or any other statute contained to the contrary, and be by the Corporation applied to the purposes of this Act.

Penalties to be paid to Corporation.

22. This Act shall not apply to that part of the royal forest of Waltham called Epping Forest, or to any part thereof.

Act not to apply to Epping Forest.

23. The costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Corporation out of the city of London grain duty.

Expenses of Act.