



CHAPTER cxl.

An Act to provide for the transfer to the Mayor Aldermen and Citizens of the city and county of Newcastle-upon-Tyne of the undertaking of the Byker Bridge Company and for certain payments to the North Eastern Railway Company under an agreement dated the eleventh day of April one thousand eight hundred and eighty-eight for the passage of foot passengers free of toll along the Railway Bridge over the Ouseburn Valley and for other purposes. A.D. 1894.

[31st July 1894.]

WHEREAS the city and county of Newcastle-upon-Tyne (in this Act called "the city") is subject to the Acts relating to municipal corporations and the mayor aldermen and citizens of the city (in this Act called "the Corporation") acting by the council are the urban sanitary authority for the district thereof:

And whereas by the Byker Bridge (Newcastle-upon-Tyne) Act 1874 (in this Act called "the Act of 1874") the Byker Bridge Company (in this Act called "the Bridge Company") were incorporated and authorised to construct in the city of Newcastle-upon-Tyne a bridge or viaduct across the Ouseburn Valley and to demand and take for the use of the said bridge and the approaches thereto the tolls specified in the said Act: 37 & 38 Vict.
c. xlii.

And whereas the Bridge Company constructed the said bridge or viaduct and under the powers of the Act of 1874 and of the Byker Bridge (Newcastle-upon-Tyne) Act 1881 have raised a share capital of sixty-five thousand pounds the whole of which is paid up and have borrowed on mortgage and now owe the sum of twenty thousand five hundred pounds but they have not created any debenture stock: 44 & 45 Vict.
c. xxix.

And whereas the Bridge Company have agreed to sell to the Corporation and the Corporation have agreed to purchase the

A.D. 1894.

undertaking of the Bridge Company for the consideration and upon the terms and conditions in this Act appearing and it is expedient that such agreement should be carried into effect :

And whereas it is expedient that the Corporation be authorised after the transfer to them of the said undertaking to reduce or extinguish all or any of the tolls leviable for the use of the Byker Bridge :

And whereas the North Eastern Railway Company (in this Act called "the railway company") are the owners of the bridge (in this Act referred to as "the railway bridge") carrying their Newcastle and North Shields Railway over the Ouseburn Valley in the city and of a roadway (in this Act called "the bridge roadway") constructed on part of the railway bridge for the passage thereover of foot passengers :

8 & 9 Vict.
c. clxiii.
s. 55.

And whereas the railway company under the powers of the Newcastle and Berwick Railway Act 1845 in that behalf are authorised to charge and previously to the agreement herein-after referred to did charge a toll of one halfpenny for every person passing along the bridge roadway :

And whereas the Corporation being desirous for the public benefit of the inhabitants and for the improvement of the city to provide a free roadway for foot passengers across the Ouseburn Valley requested the railway company to enter into the agreement herein-after referred to :

Agreement
11th April
1888.

And whereas accordingly an agreement was on the eleventh day of April one thousand eight hundred and eighty-eight made between the Corporation of the one part and the railway company of the other part which provided among other things (that is to say) :—

For the free passage of foot passengers along the bridge roadway between the hours of five o'clock in the morning and midnight for a period of fifteen years (subject to the determination or further continuance of that period in the circumstances in the said agreement mentioned) in consideration of the Corporation during the continuance of the said agreement—

Paying to the railway company the annual sum of six hundred pounds ;

Providing the means of lighting and lighting the bridge roadway ; and

Paying all rates taxes and assessments made or levied by the Corporation or on their account in respect of the bridge roadway :

And whereas from the fifteenth day of April one thousand eight hundred and eighty-eight the bridge roadway has been open free of toll for foot passengers in accordance with the said agreement: A.D. 1894.

And whereas by the Newcastle-upon-Tyne Improvement Act 1865 the Corporation were authorised to levy upon the occupiers or owners of lands in the borough a rate (in that Act and in this Act called "the improvement rate") the limit of which was not to exceed in any year one shilling in the pound on the annual value of the property rated: 28 & 29 Vict. c. ccl. s. 129. s. 131.

And whereas the limit of the improvement rate was extended by the Newcastle-upon-Tyne Tramways and Improvement Act 1877 to one shilling and threepence and by the Newcastle-upon-Tyne Improvement Act 1882 to one shilling and sixpence in the pound on the annual value of the property rated: 40 & 41 Vict. c. cli. s. 50. 45 & 46 Vict. c. clxxii. s. 105.

And whereas on the nineteenth day of May one thousand eight hundred and eighty-eight an action in the nature of an information was commenced in the Queen's Bench Division of the High Court on the relation of the Bridge Company against the Corporation and the railway company for an injunction to restrain the Corporation from applying and the railway company from receiving moneys derived from the city fund or from rates leviable by the Corporation for the purpose of the annual payment of six hundred pounds under the said agreement and also for a declaration that the said agreement was ultra vires and void:

And whereas it was finally decided in the said action on appeal to the House of Lords that the said agreement was not ultra vires or void but that the Corporation could only make the payments thereunder out of chance or accidental surplus of their rates or city fund and that a rate could not be levied for the purpose of providing for or so as to include such payments:

And whereas no moneys have been paid to the railway company under the said agreement and there will be owing to them on the eleventh day of October next the sum of three thousand nine hundred pounds thereunder:

And whereas the railway company have agreed with the Corporation in consideration of the payment by the Corporation to the railway company of the sum of four thousand five hundred pounds to cancel the said agreement of the eleventh day of April one thousand eight hundred and eighty-eight and it is expedient that the said payment to the railway company be sanctioned and that the said agreement be cancelled as from the eleventh day of April one thousand eight hundred and ninety-five:

And whereas it is expedient that the Corporation should be authorised to borrow money for the purposes of this Act:

[Ch. cxi.] *Newcastle-upon-Tyne Corporation* [57 & 58 VICT.]
(*Byker Bridge, &c.*) Act, 1894.

A.D. 1894.

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

And whereas the purposes aforesaid cannot be attained without the authority of Parliament :

And whereas an absolute majority of the whole number of the council at a meeting held on the twenty-third day of May one thousand eight hundred and ninety-four after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the "Evening Chronicle" a local newspaper published and circulating in the city 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 improvement rate :

And whereas such resolution was published twice in the "Newcastle Daily Chronicle" a local newspaper published and circulating in the city 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 thirteenth day of June one thousand eight hundred and ninety-four being not less than fourteen days after the deposit of the Bill for this Act in Parliament :

And whereas the owners and ratepayers of the city by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act :

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 Newcastle-upon-Tyne Corporation (Byker Bridge &c.) Act 1894.

Interpretation.

2. In this Act—

"The bridge undertaking" means and includes the undertaking lands works bridge buildings easements real and personal property (as the same respectively existed on the seventh day of May one thousand eight hundred and ninety-four but excepting cash in hand or with the bankers of the Bridge Company book debts and office furniture) and the rights and privileges of the Bridge Company ;

"The Corporation" means the mayor aldermen and citizens of the city ;

“The council” means the council of the city;

A.D. 1894.

“The Bridge Company’s Acts” means the Act of 1874 and the Act of 1881.

3. Subject to the provisions of this Act the Bridge Company shall sell and the Corporation shall purchase the bridge undertaking for the consideration and on and subject to the terms and conditions in this Act contained.

Bridge Company to sell and Corporation to purchase bridge undertaking.

4. The consideration for the said purchase shall be the payment by the Corporation to the Bridge Company of the sum of one hundred and twelve thousand pounds and such payment shall be made on the first day of January one thousand eight hundred and ninety-five or as soon as practicable thereafter but not later than the seventh day of November one thousand eight hundred and ninety-five and if such payment shall not be made on or before the said seventh day of November one thousand eight hundred and ninety-five the powers of the Corporation under this Act and all obligation on the Bridge Company to sell the bridge undertaking shall be as from that date extinguished.

Consideration for the purchase.

5. All the costs charges and expenses reasonably incurred by the Bridge Company subsequent to the seventh day of May one thousand eight hundred and ninety-four in relation to the Bill for this Act and in effecting the said transfer and in winding up the affairs of the Bridge Company shall be paid by the Corporation.

Corporation to pay costs of transfer and of winding up the Bridge Company.

6.—(1.) Upon the payment by the Corporation to the Bridge Company of the said sum of one hundred and twelve thousand pounds the bridge undertaking shall by virtue of this Act be transferred to and absolutely vest in the Corporation freed and discharged from all claims and demands of any proprietors of shares or stocks of the Bridge Company and from all debts and liabilities of the Bridge Company and such transfer and vesting is herein-after referred to as “the transfer”.

Transfer.

(2.) The Corporation shall within three months from the transfer produce to the Commissioners of Inland Revenue a copy of this Act stamped as a conveyance on sale on a consideration of one hundred and twelve thousand pounds and if the Corporation shall not within the said period of three months produce to the said Commissioners such copy of the Act duly stamped as aforesaid such stamp duty with interest thereon at the rate of five pounds per centum per annum from the transfer shall be recoverable from the Corporation with full costs of suit and all costs and charges attending the same.

A.D. 1894.

Receipt of
directors of
Bridge Com-
pany for
purchase-
money.

7. The receipt in writing of the directors of the Bridge Company for any purchase-money to be paid by the Corporation shall be a good and sufficient discharge for any money therein stated to have been received and the Corporation shall not be bound to see to the application or be accountable for the non-application thereof or any part thereof.

Bridge
Company
to carry
on their
undertaking
until the
transfer.

8. Until the transfer the Bridge Company shall carry on their undertaking in the ordinary course and shall perform and pay all obligations and outgoings and take all receipts in connexion therewith but they shall not except with the consent of the Corporation under their common seal enter into any contract after the passing of this Act which shall extend beyond the first day of January one thousand eight hundred and ninety-five.

Application
of the Bridge
Company's
Acts to the
Corporation.

9. From and after the transfer and subject to the provisions of this Act all the rights powers privileges and authorities of the Bridge Company under the Bridge Company's Acts and under any enactment for the protection of the Bridge Company or the bridge undertaking including the right to levy demand receive and recover any tolls and charges which the Bridge Company may demand receive or take shall be by virtue of this Act transferred to and vested in the Corporation and those Acts and enactments shall be read and have effect as if the Corporation had been therein named instead of the Bridge Company subject nevertheless and according to the provisions of this Act and to the following exceptions and provisions (namely) :—

- (1.) The provisions of the Companies Clauses Consolidation Act 1845 incorporated with the Bridge Company's Acts shall not apply to the Corporation ;
- (2.) None of the provisions of the Bridge Company's Acts in any matter relating to the share or loan capital of the Bridge Company or to the constitution meetings or directors of the Bridge Company shall apply to the Corporation.

Application
of purchase-
money.

10. The purchase money shall be applied by the liquidators of the Bridge Company as follows :—

- (Firstly) In paying all mortgage debts of the Bridge Company ;
- (Secondly) In paying and discharging all other debts and liabilities of the Bridge Company and in making such other payments (if any) as shall be sanctioned by a general meeting of the Bridge Company ;
- (Thirdly) In making a division of the residue thereof among the several persons whose names appear at the date of the transfer in the transfer books of the Bridge Company as proprietors of

shares in the capital of the Bridge Company or their respective executors administrators successors or assigns according to their several rights. A.D. 1894.

11.—The persons who at the date of the transfer appear in the books of the Bridge Company to be proprietors of shares shall unless the contrary is proved be considered to be holders of such shares for the purpose of the distribution of the assets of the Bridge Company and no transfer of such shares shall be registered after the date of the transfer of the bridge undertaking. Bridge Company's books to be evidence as to proprietors of capital.

12.—(1.) On the day following that on which the transfer takes place the Bridge Company shall be deemed to have passed a special resolution as defined by the Companies Act 1862 for the voluntary winding up of the Bridge Company under the Companies Acts 1862 to 1890 and for the appointment of the then directors of the Bridge Company to be liquidators thereof and such resolution shall have effect as if the Bridge Company were registered under the Companies Act 1862 as a company limited by shares and the said liquidators or other the liquidators of the Bridge Company shall subject to the provisions of this Act proceed to wind up the affairs of the Bridge Company accordingly. Bridge Company to wind up their affairs.

(2.) And the creditors contributories and liquidators of the Bridge Company and all other persons interested including the Corporation may make any application to the High Court in relation to the winding up of the Bridge Company which they respectively might have made if an order had been duly made by such Court for continuing the voluntary winding up of the Bridge Company subject to the supervision of the Court with liberty to so apply reserved and the High Court shall have jurisdiction accordingly.

(3.) For the purposes of such winding up the Bridge Company may retain in office such of their officers and servants as they deem necessary and may pay such officers and servants such reasonable remuneration as they think fit and they also may pay the reasonable fees of the directors after the transfer which shall be deemed to be and be included in the costs of winding up.

(4.) The liquidators of the Bridge Company shall as and when required by the Corporation furnish the Corporation with full information as to the proceedings taken in the winding up of the Bridge Company and shall allow the Corporation to inspect all books papers claims proofs vouchers and other documents relating thereto.

13. All deeds muniments of title maps awards agreements instruments and documents of the Bridge Company relating to the bridge undertaking shall be delivered to the Corporation at the time of the payment by the Corporation of the purchase-money. As to muniments of title of Bridge Company.

[Ch. cxi.] *Newcastle-upon-Tyne Corporation* [57 & 58 VICT.]
(*Byker Bridge, &c.*) Act, 1894.

A.D. 1894. and all minute books books of account vouchers instruments and documents belonging to the Bridge Company at the time of the dissolution thereof shall be delivered to and be thenceforth preserved by the Corporation.

Books of Bridge Company to be evidence.

14. All books and documents of or concerning the Bridge Company which if this Act had not been passed would have been admitted in evidence shall be admitted in evidence as if this Act had not been passed.

Corporation may extinguish bridge tolls.

15. The Corporation may if they think fit at any time or times after they have acquired the bridge undertaking extinguish wholly or partially all or any of the tolls authorised to be demanded and received by the Act of 1874.

Power to Corporation to borrow.

16. The Corporation may from time to time (in addition to any moneys they now are or hereafter may be authorised to borrow under the provisions of any Act) borrow at interest on the security of the improvement rate and for the following purposes the following sums (that is to say):—

For paying the costs charges and expenses of and in relation to this Act and of and in relation to the paying off and reborrowing of moneys under the powers of this Act the sum requisite for the purpose ;

For payment of the purchase-money for the bridge undertaking the sum of one hundred and twelve thousand pounds ;

For payment of the costs charges and expenses of and incident to the transfer and the winding up of the affairs and the dissolution of the Bridge Company the sum requisite for those purposes ;

For payment to the railway company of the said sum of four thousand five hundred pounds :

In calculating the sum the Corporation may borrow under any other enactment any sums they may borrow under this Act shall not be reckoned and the powers of the Corporation as to borrowing and reborrowing under this Act shall not be restricted by any of the provisions of the Public Health Act 1875.

Incorporation of sections of Public Health Act 1875.

17. The following sections of the Public Health Act 1875 shall extend and apply mutatis mutandis to and in relation to all mortgages made under the powers of this Act (that is to say):—

Section 236 (Form of mortgage) ;

Section 237 (Register of mortgages) ;

Section 238 (Transfer of mortgages) ; and

Section 239 (Receiver may be appointed in certain cases) except the proviso thereto.

18. (1.) The Corporation shall repay or make provision for repaying all moneys borrowed under the powers of this Act within the respective periods herein-after mentioned from the date when the same shall be respectively borrowed:—

A.D. 1894.
—
As to repayment of borrowed moneys.

(A) All moneys borrowed for the payment of the costs charges and expenses of and in relation to this Act and of and in relation to the paying off and reborrowing of moneys under the powers of this Act in any period not exceeding ten years;

(B) All moneys borrowed for payment to the railway company in any period not exceeding ten years;

(C) All moneys borrowed for the purposes of or in relation to the transfer of the bridge undertaking in any period not exceeding fifty years.

(2.) The repayment of all moneys borrowed under the powers of this Act shall be effected by equal yearly or half-yearly instalments of principal or of principal and interest.

(3.) The first instalment shall be paid within twelve months after the date of the borrowing of the money in respect of which such payment is to be made.

19. The following sections of the Newcastle-upon-Tyne Improvement Act 1892 (that is to say):—

Incorporating certain sections of Act of 1892.

Section 140 (Annual return to Local Government Board with respect to sinking funds);

Section 141 (Power to reborrow);

Section 143 (For appointment of receiver);

Section 144 (For protection of lenders);

Section 145 (Corporation not to regard trusts); and

Sub-section (1) of section 146 (Power to borrow under Local Loans Act 1875)

shall extend and apply mutatis mutandis to and in relation to moneys borrowed under the powers of this Act.

20. All moneys borrowed under the powers of this Act shall be applied only to the purposes for which they are respectively authorised to be borrowed and to which capital is properly applicable.

Application of borrowed moneys.

21. Forthwith after the transfer the Corporation shall pay to the railway company the sum of four thousand five hundred pounds and that sum shall be in full discharge of all claims of the railway company under or by virtue of the said agreement of the eleventh day of April one thousand eight hundred and eighty-eight and from and after such payment the said agreement shall become null and void and on and after the eleventh day of April one thousand eight hundred and ninety-five the rights powers and authorities of the

After the transfer Corporation to pay to North Eastern Railway Company £4500.

A.D. 1894. — railway company to levy tolls for the use of the bridge roadway shall be in full force and effect as fully as if the said agreement had not been entered into.

Expenses of
executing
Act.

22. All expenses of carrying into execution the provisions of this Act except so far as they are to be paid out of borrowed moneys shall be paid out of the improvement rate.

Expenses
of Act.

23. The costs charges and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act (including the costs charges and expenses of the Bridge Company in relation thereto as herein-before provided) 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 improvement rate or out of moneys borrowed for the purpose on the security thereof under the powers of this Act.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY FIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
JOHN MENZIES & Co., 12, HANOVER STREET, EDINBURGH, and
88 and 90, WEST NILE STREET, GLASGOW; or
HODGES, FIGGIS, & Co., LIMITED, 104, GRAFTON STREET, DUBLIN.