

[61 & 62 VICT.] *Newcastle-upon-Tyne Corporation* [Ch. ccxxvii.]
(*New Infirmary Site*) Act, 1898.



CHAPTER ccxxvii.

An Act to empower the mayor aldermen and citizens of A.D. 1898.
the city and county of Newcastle-upon-Tyne to convey
to the trustees of the Newcastle-upon-Tyne Royal
Infirmary a portion of the Castle Leazes as a site for a
new infirmary. [12th August 1898.]

WHEREAS there is within the city and county of Newcastle-upon-Tyne (in this Act referred to as "the city") a tract of land containing about one thousand one hundred acres bearing in different parts the several names of "the Town Moor" "the Castle Leazes" and "the Nuns Moor" but ordinarily and collectively called and in this Act referred to as "the Town Moor":

And whereas the mayor aldermen and citizens of the city and county of Newcastle-upon-Tyne (in this Act referred to as "the Corporation") are or claim to be entitled to the soil of the Town Moor for an estate in fee simple but the same is subject to a right or benefit of herbage in the resident freemen or burgesses of the city and the resident widows of deceased freemen or burgesses of the city which right or benefit is known as and is in this Act called "herbage right":

And whereas by the Act of 14 George III. chapter 105 (private) 14 Geo. 3.
c. 105. provisions were enacted for and in relation to the enjoyment management and improvement of the surface of the Town Moor and within certain limits the enclosure thereof:

And whereas in the preamble to the Newcastle-upon-Tyne 33 & 34 Vict.
c. cxx. Improvement Act 1870 it was recited (among other things relating to the Town Moor) that in order to make the Town Moor more beneficial to the borough it was expedient that a better system of management should be established by agreement or arbitration between the Corporation and the stewards and wardens of the companies of the borough as representing the interests of the resident freemen or burgesses of the borough and the resident widows of deceased freemen or burgesses of the borough and it was

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by the said Act enacted that a committee of the said stewards and wardens should be annually appointed to act for and on behalf of the said stewards and wardens and freemen and widows of freemen for all purposes relating to the Town Moor and various powers were conferred on the Corporation and the said committee for the management thereof including power to enter into agreements for (among other things) the planting of clumps of trees and inclosing the same and by the said Act the Corporation were authorised to take possession of hold appropriate and set apart in two distinct plots in such positions as they might select a portion of the Castle Leazes not exceeding thirty-five acres and a portion of the other part of the Town Moor not exceeding thirty-five acres as a public park or parks and for the purposes of exercise and recreation by the public and the Corporation were authorised to enclose lay out and plant the same and to build lodges therein and make roads and approaches thereto the land occupied by which was to be included in the said thirty-five acres allowed to be taken for each of the said parks and it was by the said Act provided that the herbage right over the lands so set apart should be extinguished :

And whereas the Corporation acting in execution of the Act of 1870 appropriated and set apart about 31 acres 3 roods and 34 perches of the Castle Leazes as a public park and roads and approaches thereto :

And whereas under an agreement bearing date the first day of May one thousand eight hundred and seventy-two and made between the Corporation and the said committee of stewards and wardens the Corporation enclosed free from herbage right and planted with trees in four several clumps further portions of the Castle Leazes about 3 acres and 6 perches in extent and the said portions were agreed and declared to be taken as part of the thirty-five acres of the Castle Leazes so as aforesaid authorised to be appropriated :

And whereas the Newcastle-upon-Tyne Royal Infirmary which is a hospital for the sick and lame poor of the city and of the adjoining counties of Northumberland and Durham has become inadequate for the reception of the patients requiring treatment therein and it is necessary that a more commodious infirmary should be provided :

And whereas in commemoration of the sixtieth year of the reign of Her most Gracious Majesty the Queen a number of the inhabitants of the city and of the counties of Northumberland and Durham have subscribed upwards of one hundred thousand pounds for the purpose of building a new infirmary :

And whereas John Hall a citizen and freeman of the city has offered to provide the sum of one hundred thousand pounds for the

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erection of a new infirmary upon the Castle Leazes or upon or near to the recreation ground on the North Road in the city : A.D. 1898.

And whereas a suitable site for a new infirmary can be provided on the Castle Leazes and it is expedient that the trustees of the said infirmary (herein-after referred to as "the trustees") should be empowered to accept the said offer of the said John Hall and that for that purpose the Corporation with the consent of the said stewards and wardens should be empowered to appropriate and convey to the trustees not exceeding ten acres of the Castle Leazes as a site for such new infirmary which site is herein-after referred to as "the new site" :

And whereas it is expedient that the Corporation should be empowered to purchase an equal area of land to be added to and form part of the Town Moor :

And whereas part of the site of the present buildings of the said infirmary (herein-after referred to as "the demised lands") consists of eleven thousand two hundred and seventy-six square yards of ground comprised in a lease from the Corporation to the trustees bearing date the twenty-seventh day of October one thousand eight hundred and fifty-two for ninety-nine years at a rental of two shillings and sixpence per annum and of one thousand eight hundred and fifty-nine square yards of ground comprised in another lease from the Corporation to the said trustees also bearing date the twenty-seventh day of October one thousand eight hundred and fifty-two for seventy-five years at a rental of twenty-one pounds per annum and such leases are terminable if the said buildings are used for any other purpose than an infirmary :

And whereas the demised lands form part of the ancient corporate estate of the Corporation :

And whereas it is expedient that the trustees should be authorised and required to surrender to the Corporation the demised lands at the times in this Act provided :

And whereas the trustees are or claim to be seised in fee of the portion of the grounds of or attached to the said infirmary coloured yellow on the plan signed in duplicate by Hill Motum on behalf of the Corporation and by William Gibson on behalf of the trustees (and herein-after referred to as "the plan") and it is expedient that the trustees be empowered to sell or exchange the said portion if they deem it expedient in the interests of the said infirmary so to do :

And whereas it is expedient that the boundary between certain parts of the Town Moor and the adjoining land should be straightened or improved and that the Corporation with the

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consent of the said committee of stewards and wardens should be empowered for that purpose to exchange portions of the Town Moor for adjoining land of not less area :

And whereas it is expedient that the Corporation be authorised to borrow moneys for the purposes of this Act to be repaid out of the proceeds of the sale of part of the demised lands as by this Act provided :

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

And whereas the objects aforesaid cannot be attained except by the authority of Parliament :

And whereas an absolute majority of the whole number of the members of the council of the city at a meeting held on the fifteenth day of December one thousand eight hundred and ninety-seven after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Newcastle Daily Journal a local newspaper published or 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 city fund and city rate of the city :

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

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the members of the council at a further special meeting held in pursuance of a similar notice on the eighth day of June one thousand eight hundred and ninety-eight 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 passed in the manner prescribed by the Public Health Act 1875 (Schedule III.) have 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 (New Infirmary Site) Act 1898.

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2. The recited Act 14 George III. chapter 105 may be cited as the Newcastle-upon-Tyne Town Moor Act 1774.

Short title to Act of 1774.

3.—(1) The Corporation with the consent by resolution of the majority of the said stewards and wardens (assembled at a meeting of which twenty-eight clear days notice shall be given by registered letter sent by post to each of the said stewards and wardens by their secretary stating the intention to consider at such meeting the appropriation of the new site) may appropriate and convey to the trustees freed and discharged from all herbage right a portion not exceeding ten acres in extent of the Castle Leazes in the city adjoining the road across the Castle Leazes leading from St. Thomas Crescent to Spital Tongues and lying between that road the footpath across the Castle Leazes from the principal entrance of the Leazes Park to Eldon Street and the eastern boundary of the Castle Leazes as a site for a new hospital or infirmary for the sick and lame poor of the city and of the adjoining counties of Northumberland and Durham and the trustees may accept and hold the same for the purpose aforesaid.

Power to Corporation to convey site to trustees of infirmary.

(2) Upon the execution of such conveyance all herbage right and all rights of way and rights of user in or upon or over the said portion of lands so conveyed shall be by virtue of this Act extinguished.

4. On the execution of the said conveyance the clump of trees covering one rood and thirty-four perches situate on the lands which may be so appropriated and conveyed as aforesaid (being one of the clumps enclosed and planted under the said recited agreement of the first day of May one thousand eight hundred and seventy-two) shall cease to form part of the Leazes Park and may and shall be removed by the Corporation to such other site of equal extent on the Castle Leazes as may be agreed on between the Corporation and the said committee of stewards and wardens.

Certain trees on the lands conveyed to be removed.

5.—(1) Within two years after the date on which the buildings on the new site shall be commenced to be used for infirmary purposes the trustees may and shall surrender to the Corporation so much of the demised lands as is coloured blue on the plan and within five years after the said date the trustees may and shall surrender to the Corporation the remainder of the demised lands coloured red upon the plan. Provided that the trustees may postpone the surrender of any part of the said land coloured red which they may require to use for the purpose of the retention or provision thereon of an accident ward and an out-patients' department or dispensary in connexion with the said infirmary for such period as they may so require to use the same.

Trustees to surrender site of infirmary.

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(2) The said rent of two shillings and sixpence per annum payable under the said lease for the term of ninety-nine years shall continue to be paid by the trustees to the Corporation until the surrender of the whole of the demised lands but from and after the first-mentioned surrender the trustees shall pay to the Corporation until the second surrender shall be completed the annual rent of fourteen pounds in lieu of the said rent of twenty-one pounds payable under the said indenture of lease for the term of seventy-five years and that indenture shall be read and construed accordingly.

(3) At any time after the expiration of the said period of two years the trustees may sell by public auction or private contract and subject to such terms and conditions (special or otherwise) as they may think fit or they may exchange the whole or any part of the portion of the land coloured yellow on the plan which they consider is not required for the purposes of the infirmary and may receive or pay (but only out of capital moneys) money for equality of exchange and shall hold the proceeds of the said sale and any money so received upon trust to apply the whole or any part thereof from time to time to or for any purpose of the said infirmary to or for which capital is properly applicable and shall invest the same in so far as it is not so applied in or upon any securities in or upon which trustees are authorised to invest trust moneys and shall apply the annual proceeds of such securities to and for the general purposes of the said infirmary.

Corporation
to purchase
and add to
Town Moor
land equal
in area to
new site.

6. The Corporation shall within a reasonable time not exceeding five years after they shall have conveyed the new site to the trustees purchase an area of land adjoining or with the consent of the said stewards and wardens near to the Town Moor not being less in extent than the area of the new site and the land so purchased shall by virtue of this Act vest in and be held by the Corporation upon and for the same uses intents and purposes and under and subject to the same terms and conditions rights powers and privileges upon for under and subject to which the Town Moor is vested in and held by them and shall for all purposes be deemed part thereof :

Provided that if in the opinion of the said stewards and wardens the land so purchased shall by reason of the quantity and quality of the herbage thereon or of its being less conveniently situate than the new site be of less value for grazing purposes than is the new site then and in such case unless otherwise agreed between the Corporation and the said stewards and wardens it shall be referred to arbitration in manner provided by the Lands Clauses Acts with respect to the purchase of lands otherwise than by agreement to determine whether the Corporation shall provide any and (if any)

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what additional quantity of land by way of compensation for such diminution in value or whether they shall pay any and (if any) what sum in lieu of such compensation or whether such compensation shall be partly in land and partly in money and if so in what shares and proportions Any sum so paid shall be invested by the Corporation in manner aforesaid and the income arising from such investment shall be paid by the Corporation to the said stewards and wardens and shall be apportioned and distributed by them to and amongst the poor resident freemen and the poor resident widows of deceased freemen in the same manner as the rents of the parts of the Town Moor enclosed and let under the provisions of the Newcastle-upon-Tyne Town Moor Act 1774 as amended by section 10 of the Newcastle-upon-Tyne Improvement Act 1870. A.D. 1898.

7.—(1) The Corporation may at any time or times after the first-mentioned surrender and shall without any unreasonable delay after the surrender of the whole of the demised lands sell by public auction or private contract and subject to such terms and conditions (special or otherwise) as they may think fit so much thereof as shall be necessary to enable them out of the purchase money therefor to repay— Corporation to sell portions of old site to repay money expended by them under this Act &c.

All moneys borrowed under the powers of this Act together with all interest on such moneys from the date of the borrowing thereof to the date of repayment:

And also to repay to the City Fund—

(a) All payments made thereout by the Corporation in respect of moneys borrowed under the powers of this Act together with interest on such payments after the rate of three per centum per annum;

(b) All costs charges and expenses incurred by the Corporation of and in relation to the sale of the said portions of the demised lands and the purchase of the land to be added to the Town Moor in lieu of the new site and any compensation which may have to be provided by the Corporation in connexion with such purchase.

(2) The Corporation shall out of the proceeds of the sale of any portion of the demised lands under the provisions of this section make the payments in this section provided for The surplus (if any) of such proceeds after making such payments shall be invested in such manner as the Local Government Board shall direct.

8.—(1) For the purpose of straightening or improving the boundary between any part or parts of the Town Moor and any Power to exchange land for

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—
straighten-
ing boundary
of Town
Moor.

adjoining land the Corporation with the consent of the said committee of stewards and wardens may from time to time exchange any portion or portions of the Town Moor adjoining such land for an area of such land not less than the portion or portions of the Town Moor so exchanged and may grant and convey such portion or portions to the owners of such adjoining land freed and discharged from all herbage right.

(2) The land conveyed to the Corporation by way of such exchange shall vest in and be held by them as part of the Town Moor upon and for the same uses intents and purposes and under and subject to the same terms and conditions rights powers and privileges upon for under and subject to which the Town Moor is vested in and held by them and shall for all purposes be deemed part thereof.

Power to
borrow.

9. The Corporation may from time to time in addition to any moneys they are now authorised to borrow by any other Act or which they may be authorised to borrow under the provisions of any public general Act borrow on mortgage at interest on the security of the city fund and city rate the necessary sums for paying the costs of this Act as herein-after defined and for the purchase of land to be added to the Town Moor in lieu of the new site and for any compensation in money to be provided by them under the provisions of this Act and for paying the costs of any arbitration under the provisions of this Act.

In calculating the sum the Corporation may borrow under any other enactment any sums they may borrow under this Act shall not be reckoned.

Provision
as to mort-
gages.

10. 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); and

Section 238 (Transfer of mortgages).

As to re-
payment of
borrowed
money.

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

All moneys borrowed for the payment of the costs of this Act in any period not exceeding five years;

All moneys borrowed for the purposes of this Act in any period not exceeding fifteen years.

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

Incorporating certain sections of Act of 1892.

- Section 141 (Power to re-borrow);
- Section 142 (Application of borrowed moneys);
- Section 143 (For appointment of receiver);
- Section 144 (For protection of lenders);
- Section 145 (Corporation not to regard trusts);

so far as they are applicable to the purposes of this Act shall extend and apply mutatis mutandis to and in relation to the moneys borrowed under this Act and for that purpose the expression "this Act" where used in those sections shall mean the Newcastle-upon-Tyne Corporation (New Infirmary Site) Act 1898.

13. The costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto (as taxed by the taxing officer of the House of Lords or of the House of Commons) and all expenses incurred by the Corporation in carrying into execution the provisions of this Act shall be paid by the Corporation out of the city fund and city rate of the city or out of moneys to be borrowed on the security thereof.

Costs of Act and expenses of execution of Act.

Printed by EYRE and SPOTTISWOODE,
FOR

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

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