CHAP. xc.

A.D. 1870.

An Act to authorise the Tyne Improvement Commissioners to collect certain Coal and other Dues now collected by the Mayor, Aldermen, and Burgesses of the borough of Newcastle-upon-Tyne, and to apply the whole thereof to the Tyne Improvement Fund; and for other purposes.

[4th July 1870.]

WHEREAS by "The River Tyne Improvement Act, 1850," after reciting that the port of Newcastle-upon-Tyne extended from Hedwin Streams above the borough of Newcastle-upon-Tyne to Spar Hawke in the sea, and that the mayor, aldermen, and burgesses of the borough were the conservators of the port, and held the town of Newcastle-upon-Tyne, together with the port, in fee farm under the Crown: and further reciting that, by virtue of prescription and various charters and the Acts therein recited, or some of them, the said mayor, aldermen, and burgesses did demand, take and receive certain dues called "Town and Quay Dues," for and in respect of goods, wares, merchandise, cattle, and things imported into the port within the limits aforesaid, in whatever part of the port the same were landed or discharged, and whether the same were landed or discharged at any quay or landing-place of the mayor, aldermen, and burgesses, or at any quay, pier, or landing-place at Newcastle-upon-Tyne, or whether the same were discharged in the stream of the river, or landed at any part of the shore of the river within the port, and such dues were therein-after and are herein-after referred to as "the Import Dues;" and that the mayor, aldermen, and burgesses, by virtue of prescription and various charters, did demand, take and receive certain dues called "Town Dues" on coals, cinders, grindstones, and salt exported from the port, and which dues were therein-after referred to as "the Coal Dues," and certain dues payable in respect of ballast brought into and delivered in the port, and other dues called "Ballast Office Dues," and which dues were respectively therein-after and are herein-after referred to as "the Ballast Dues," and certain other dues called respectively

13 & 14 Vict. c. lxiii.

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"Groundage and Plankage" and "Ship and Boat" dues: and further reciting that it was expedient that further provision should be made for the improvement of the port and of the river Tyne, and for the regulation of the navigation thereof; and that the mayor, aldermen, and burgesses were willing on the terms therein expressed that Commissioners should be appointed for carrying into execution some of the provisions and purposes of that Act; and that the authorities, duties, and obligations of the mayor, aldermen, and burgesses, as the conservators of the port, so far as in that Act expressed, should be transferred to and imposed on such Commissioners; and that, for the purpose of providing a fund expressly for the improvement and conservancy of the port and of the river, a certain portion of the dues received by and belonging to the mayor, aldermen, and burgesses, subject as in that Act mentioned, should be placed at the disposal of such commissioners for the purposes of such improvement and conservancy; certain provisions are contained for the appointment and proceedings of Commissioners to execute the Act called "The Tyne Improvement Commissioners," (who were afterwards duly appointed): and it was enacted that the Commissioners should be conservators of the port and river with such powers as were therein mentioned: and it was by the forty-eighth section enacted, that from and after the commencement of that Act, first, all the dues from time to time paid to the mayor, aldermen, and burgesses in respect of ballast brought into or delivered in the port, and all the ballast office dues from time to time paid to the corporation, but after paying, deducting, allowing, or satisfying out of such dues respectively all the costs, charges, losses, damages, and expenses of and incident to the recovering, collecting, and receiving of the same respectively, and all charges, claims, and demands thereon respectively or on or against the corporation under and by virtue of any leases, contracts, and agreements made by or with the corporation before the first day of January one thousand eight hundred and fifty, of or in any way affecting or relating to the same dues respectively, or concerning the conveying, delivery, or receiving of any ballast in the port; and, secondly, all the import dues, after paying, deducting, allowing, or satisfying out of the same all the costs, charges, losses, damages, and expenses of and incident to the recovering, collecting, and receiving of the same; and, thirdly, all the dues called respectively groundage, plankage, and the ship and boat dues from time to time paid to the corporation, but after paying, deducting, allowing, or satisfying thereout all the costs, charges, losses, damages, and expenses of and incident to the recovering, collecting, and receiving of the same, and the several payments made in pursuance of "The Newcastle-upon-Tyne Port

Act, 1845;" and, fourthly, three eighth parts of all the coal dues from time to time paid to the corporation, after paying, deducting, allowing, or satisfying out of the aggregate amount of such dues all the costs, charges, losses, damages, and expenses of and incident to the recovering, collecting, and receiving of the same, should from time to time be carried by the treasurer for the time being of the borough to the credit of a separate and distinct account, to be called "The Tyne Improvement Fund Account," and the moneys from time to time carried and to be carried as directed by the now reciting Act to such account should, subject to the provisions of such Act, be the fund for the payment of the expenses of carrying that Act into execution by the Commissioners, and should be called "The Tyne Improvement Fund:" and by the twenty-seventh section of the said Act such fund was charged with part of certain moneys which had been borrowed by the corporation partly for purposes of the port and river: and by the fifty-fourth section of the same Act it was further enacted, that after the commencement of that Act the five eighth parts not by that Act directed to be carried to the credit of the Tyne Improvement Fund of all the coal dues from time to time paid to the corporation, after paying, deducting, allowing, or satisfying out of the aggregate amount of such dues all the costs, charges, losses, damages, and expenses of and incident to the recovering, collecting, and receiving of the same, and also the package duties and dues for the use of sheds on the quay, should from time to time be carried by the treasurer to the credit of the borough fund of the borough, and should as part of the borough fund be applicable generally for the purposes to which the borough fund was by law applicable, and should be exempted from all liability in respect of the conservancy, or the maintenance and repair of the port and river and the quays, banks, and shores thereof, save the public quay of Newcastle-upon-Tyne:

And whereas by "The Tyne Improvement Act, 1852," further powers were conferred upon the Commissioners: 15 & 16 Vict. c. cx.

And whereas by "The Tyne Improvement Act, 1857," the Commissioners were incorporated, and additional powers were conferred upon them: 20 & 21 Vict. c. lxxi.

And whereas by "The Tyne Improvement Act, 1859," certain additional powers were conferred on the Commissioners: 22 & 23 Vict. sess. 2. c. vii.

And whereas by "The Tyne Improvement Act, 1861," certain additional powers were conferred on the Commissioners, and it was enacted that from and after the first day of September after the passing of that Act the ancient rates or dues called respectively groundage and plankage, and the ballast office dues, and the ship and boat dues theretofore raised and appropriated to the Tyne Improvement Fund by the Commissioners should cease and deter- 24 & 25 Vict. c. xci.

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mine, and certain tonnage rates were imposed and made payable to the Commissioners:

28 & 29 Vict. c. cclxxiv. 29 & 30 Vict. c. xci. 30 & 31 Vict. c. cxxxv.

And whereas by the Tyne Improvement Acts of 1865, 1866, and 1867 certain additional powers were conferred on the Commissioners:

And whereas certain dues called and known as differential dues, being dues levied on foreign ships, or on goods carried in foreign ships, which formed part of such coal dues, were abolished by "The Harbours and Passing Tolls, &c. Act, 1861," and the compensation payable out of public moneys for such differential dues will, under the provisions of the same Act, cease on the first day of January one thousand eight hundred and seventy-two:

And whereas the corporation have agreed, on the terms hereinafter mentioned, that the five eighth parts not by "The River Tyne Improvement Act, 1850," directed to be carried to the credit of the Tyne Improvement Fund of the coal dues payable to the corporation, being dues payable in respect of goods carried in ships, should be transferred to the Commissioners to be expended by them for the purposes of the port and river, subject to the condition herein-after contained, and that the Commissioners should be authorised to collect, recover, and receive the said coal dues, and the ballast dues, import dues, and all other dues and payments which by "The River Tyne Improvement Act, 1850," are directed to be from time to time carried by the treasurer of the borough to the credit of the said Tyne Improvement Fund:

And whereas it is expedient that the Commissioners should be authorised to raise further sums of money:

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Tyne Improvement Act, 1870."

Interpretation of terms.

2. In this Act the following words and expressions have the respective meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The expression "the corporation" means the mayor, aldermen, and burgesses of the borough of Newcastle-upon-Tyne:

The expression "the Commissioners" means the Tyne Improvement Commissioners:

The expression "the borough" means the borough of Newcastle-upon-Tyne:

The expression "the port" means the port of Newcastle-upon-Tyne, which includes so much of the ports of North Shields and South Shields established for custom house purposes as lie within the limits of the ancient port of Newcastle-upon-Tyne:

The expression "the coal dues" means the dues payable on coals, cinders, grindstones, and salt exported from the port, including the compensation payable out of public moneys for differential dues.

Transfer of five eighth parts of coal dues to the Commissioners.

3. The five eighth parts not by "The River Tyne Improvement Act, 1850," directed to be carried to the credit of the Tyne Improvement Fund of all the coal dues, and which said five eighth parts were by the same Act directed to be carried to the borough fund of the borough, shall, on the first day of January one thousand eight hundred and seventy-one, be transferred to the Commissioners, and shall thereafter belong to the Tyne Improvement Fund, and be dealt with by the Commissioners as part of such fund, according to the provisions of the said "River Tyne Improvement Act, 1850," and the recited Acts passed subsequently thereto, and all the interest of the corporation in the said five eighth parts of the said coal dues shall thereupon be vested in the Commissioners.

Commissioners may exercise same powers as to five eighths which they can now exercise as to three eighths of coal dues.

4. From and after the transfer of the said five eighth parts of the coal dues the Commissioners shall, in respect of such five eighth parts, be entitled to use, exercise, and enjoy all the rights and powers which they are or may be entitled to use, exercise, and enjoy in respect of the three eighth parts of the same dues which were transferred to the Commissioners by "The River Tyne Improvement Act, 1850," including the rights and powers given by the fourteenth section of "The Harbours and Passing Tolls, &c. Act, 1861," in as full and ample a manner in all respects as if the said five eighth parts had been transferred to the Commissioners by "The River Tyne Improvement Act, 1850."

The coal dues and ballast dues and import dues to be received by the Commissioners.

5. From and after the transfer of the said five eighth parts of the said coal dues to the Commissioners, the whole of the said coal dues, and the said ballast dues and import dues, and all other dues and payments which by "The River Tyne Improvement Act, 1850," were directed to be from time to time carried by the treasurer of the borough to the said Tyne Improvement Fund, shall be paid to and received by the Commissioners, and be by them paid to the credit of such fund.

Powers relating to such dues transferred to the Commissioners.

6. All the powers of the corporation and of the treasurer of the borough in relation to the receipt of the said several dues shall, from and after such transfer, be exercised by the Commissioners.

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Payment of purchase money of five eighths of coal dues.

7. The Commissioners shall pay to the corporation the sum of one hundred and thirty thousand pounds, in consideration of the relinquishment and transfer of the said five eighth parts of the coal dues, and such payment shall be made by five equal yearly instalments on the first day of January in each year, the first of such instalments to be made on the first day of January one thousand eight hundred and seventy-two; and, in addition to such last-mentioned payments, the Commissioners shall also pay to the corporation interest on the said sum of one hundred and thirty thousand pounds, or on so much thereof as for the time being shall be unpaid, at the rate of four pounds ten shillings per centum per annum, such interest being payable half-yearly on the first day of January and the first day of July in every year, and the first payment to be made on the first day of July one thousand eight hundred and seventy-one; but it shall be lawful for the Commissioners, if they see fit, to prepay any one of the said annual instalments, having given to the corporation three calendar months notice of their intention to do so; or to prepay the whole of the said annual instalments, or so much thereof as shall not have fallen due, having given to the corporation six calendar months notice of their intention to do so; and the receipt of the borough treasurer shall be a sufficient discharge for all such payments.

Lien of corporation for purchase money.

8. The corporation shall be entitled to a lien or charge in equity on the said five eighth parts of the coal dues for the said several instalments and interest, or for so much thereof as shall from time to time remain unpaid.

Payment of certain annuities.

9. The Commissioners shall pay, as and when the same shall become due and payable, all annuities payable by the corporation under "The Shipping Dues Exemption Act, 1867," and the agreements entered into by the corporation in respect of the same (other than and except the annuities chargeable on package dues payable to the corporation on goods landed on Newcastle Quay) from and after the said first day of January one thousand eight hundred and seventy-one until and with the thirty-first day of July one thousand eight hundred and seventy-seven, and save harmless and keep indemnified the corporation of, from, and against the payment of the same annuities (except as aforesaid) and every or any part thereof.

Power to Commissioners to borrow on mortgage.

10. It shall be lawful for the Commissioners to borrow and raise upon the credit of the Tyne Improvement Fund, in addition to all moneys by the existing Acts authorised to be raised on the credit of that fund, any sums of money not exceeding in the whole four hundred thousand pounds; and the Commissioners shall have all such and the like powers of raising such additional sums, and also

all other powers and authorities in relation to moneys borrowed on the security of the Tyne Improvement Fund, as they would have had if the additional sum authorised to be raised by this Act had been authorised to be borrowed by the Act of 1850, or any of the said recited Acts: Provided always, that such additional powers of raising money shall not prejudice any rights which the holders of existing mortgages of the Tyne Improvement Fund may have, under the provisions of such Acts, or any of them; but all mortgages already granted upon that fund and in force at the passing of this Act shall, during their continuance, have priority over any mortgage to be created under the powers of this Act.

Application of borrowed moneys.

11. The moneys so borrowed shall be applied by the Commissioners to the purposes of this Act, or to any of the purposes to which the Tyne Improvement Fund is made applicable by the Act of 1850, or any of the recited Acts passed subsequently thereto for which capital is properly applicable.

Sinking fund.

12. From and after the first day of January one thousand eight hundred and eighty-one the Commissioners shall, for the purpose of discharging the principal moneys borrowed under the authority of this Act, appropriate and set apart every year out of the Tyne Improvement Fund the sum of four thousand pounds, and shall therewith pay off corresponding parts of the principal moneys so borrowed.

Saving rights of corporation of Newcastle-upon-Tyne.

13. Except as by this Act otherwise provided, nothing in this Act shall take away, lessen, prejudice, alter, or affect any of the rights, privileges, property, powers, and authorities of the mayor, aldermen, and burgesses of the borough of Newcastle-upon-Tyne.

Expenses of Act.

14. All the costs, charges, and expenses of applying for, obtaining, and passing this Act, and preparatory and incidental thereto, shall be paid by the Commissioners out of the Tyne Improvement Fund.

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