



## CHAPTER lxx.

An Act to authorise the Mayor, Aldermen, and Burgesses of the Borough of Rotherham to raise more Money for their Waterworks Undertaking; and to construct a Bridge over the River Dun; and to alter certain of the provisions of "The Rotherham and Kimberworth Local Board of Health Act, 1863," relating to Markets and Fairs; and for other purposes. A.D. 1875.  
[14th June 1875.]

**W**HEREAS by the Rotherham and Kimberworth Local Board of Health Act, 1863 (in this Act called "the Act of 1863"), the local board of health for the district of Rotherham and Kimberworth, in the west riding of the county of York (in this Act called "the local board"), were authorised to construct the waterworks therein described or referred to, and the same are in course of construction, but are not completed: 26 & 27 Vict.  
c. cxvii.

And whereas by the same Act the local board were authorised to purchase the Rotherham market place, and the market rights and profits therein referred to, and to have and exercise the other powers, rights, and privileges in relation to markets and fairs therein mentioned, but it was provided (section 86) that the said board should not purchase certain lands (being lands required for market purposes) without the consent of the owners and ratepayers of the township of Rotherham, to be obtained as therein mentioned, and (section 91) that the expenses connected with the purchase of the market rights of the Earl of Effingham should be borne by a general district rate, to be levied on the township of Rotherham exclusively, and (section 92) that the expenses of the local board incurred in the exercise of the other powers conferred by the Act in relation to markets and fairs should be paid out of the stallages, rents, tolls, and income derived from the markets and fairs, and from the land and other property held or connected with the markets and fairs, and in the event of such stallages, rents, tolls, and income being insufficient, that such expenses should be borne to the extent of the insufficiency by a general district rate to be also levied upon the township of Rotherham exclusively:

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And whereas by the charter of incorporation, dated the twenty-ninth day of August one thousand eight hundred and seventy-one, the district of the local board was constituted a municipal borough by the name of the Borough of Rotherham, and the powers, rights, and privileges of the local board were transferred to and vested in the mayor, aldermen, and burgesses of that borough, in this Act called "the Corporation :"

And whereas the local board purchased the market place, market rights, and lands, and borrowed a sum of thirteen thousand pounds on the security of the said stallages, rents, tolls, and income, and of the general district rates to be levied on the township of Rotherham exclusively for the purposes thereof, and they and the Corporation have otherwise exercised the powers of the said Act in relation to markets and fairs :

And whereas the Corporation require funds to enable them to carry on their waterworks, and it is expedient that the acts done by the local board and of the Corporation and the members thereof respectively in relation to the markets and fairs should be confirmed, and that the market places and all lands acquired by the local board and Corporation respectively for market purposes, and all their powers, rights, and privileges in relation to markets and fairs, should be deemed to have been acquired and exercised by them respectively for the benefit and at the expense of the whole district or borough :

And whereas the construction of a bridge in the said borough over the River Dun, near the existing foot-bridge which carries the footpath over the same river from St. Anne's Road to the road, formerly turnpike, leading from Rotherham to Swinton, and a carriage road or approach to such bridge from St. Anne's Road, would be of public advantage, and the Corporation are willing to make such bridge and road if authorised by Parliament so to do :

And whereas a plan and section showing the lines and levels of the proposed bridge and road, and also a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken under the powers of this Act, were duly deposited with the clerk of the peace for the west riding of the county of York, and are herein-after respectively referred to as the deposited plan, section, and book of reference :

And whereas estimates have been prepared by the Corporation for the purchase of land and construction of works by the Act of 1863 and this Act authorised, and such estimates are as follows :

For waterworks, thirty thousand pounds ;

For bridge and approach, five thousand pounds :

And whereas the several works included in such estimates respectively are permanent works within the meaning of section 57 of the Local Government Act, 1858 :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

And whereas a majority of the whole number of the council, at a meeting held after ten clear days notice by public advertisement of such meeting, and of the purpose thereof, in a local newspaper published or circulating in the said borough, 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 general district rates of the borough :

And whereas such resolution was published twice in a newspaper circulating in the said borough, 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 a majority of the whole number of the council at a further special meeting held in pursuance of a similar notice not less than fourteen days after the deposit of the Bill in Parliament :

And whereas the owners and ratepayers of the said borough, by resolution in the manner provided in the Local Government Act, 1858, for the adoption of that Act, consented to the promotion of the Bill for this Act :

And whereas at the meeting to which the estimate for waterworks was submitted for approval the costs incurred by the Corporation in opposing the "Doncaster Corporation Water Act, 1873," amounting to the sum of seven hundred and fifty-two pounds five shillings and twopence, were laid before the ratepayers present at the meeting, and the assent of the meeting was given to the same, together with that for the waterworks :

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,)

1. This Act may be cited as "The Rotherham Corporation Act, 1875." Short title.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and the provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the Commissioners (except section eighty-four, and except where expressly varied by this Act), are incorporated with and form part of this Act. Provisions of certain general Acts incorporated.

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Same meanings to words in incorporated Acts and this Act.

3. The several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction: Provided always, that in the Acts wholly or partially incorporated with this Act, and also in this Act, the expression "the promoters of the undertaking" or "the commissioners" shall mean the Corporation, and the expression "clerk to the commissioners" shall mean the town clerk; and the expression "superior courts," or "court of competent jurisdiction," or any other like expression, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Interpretation of terms.

4. In this Act the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

The word "borough" shall mean the borough of Rotherham:

The word "council" shall mean the town council of the borough:

The word "district" shall mean the district of the local board:

The expression "the Act of 1870" shall mean the Rotherham and Kimberworth Local Board of Health Act, 1870.

Power of Corporation to be exercised by council.

5. All powers by this Act vested in the Corporation, and all duties by this Act imposed upon the Corporation, shall be exercised and performed by the council, as if the council were named in that behalf in this Act instead of the Corporation.

Power to Corporation to appoint committee.

6. The Corporation, by the council, may from time to time, out of the members of the council, appoint a committee, to be called the Bridge Committee, for the execution of this Act, so far as it relates to the bridge and road by this Act authorised to be made, and may remove any member of the committee and appoint any other member of the council in his place, and may from time to time delegate to the committee such of the powers, authorities, and duties of the Corporation under this Act with respect to the said bridge and approach as they think fit; and the acts and proceedings of the committee within the limits of such delegation shall be deemed the acts and proceedings of the Corporation; and the quorum of the committee shall from time to time be fixed by the Corporation; and the Corporation may from time to time make such regulations as they think fit for the guidance of the committee; and such of the acts and proceedings of the committee as the Corporation from time to time require, but no others, shall be submitted to the Corporation for approval.

7. For any of the purposes of this Act, any minute made of proceedings at meetings of the council or of the Bridge Committee, if signed by any person purporting to be the chairman of such council or committee at the meeting of the council or committee at which such proceedings took place, shall be receivable in all courts of law and equity and elsewhere as *primâ facie* evidence, without further proof of the proceedings of which the same purports to be a minute; and until the contrary is proved, every meeting of the council or committee shall, in respect of the proceedings of which minutes have been so made, be deemed to have been duly convened and held, and all the members thereof to have been duly qualified, and such minutes of proceedings shall at all reasonable times be open to the inspection of any member of the council, and of any mortgagee of the rates or property of the Corporation.

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 Minutes of proceedings of council and Bridge Committee to be evidence.

8. Subject to the provisions of this Act, the Corporation may make and maintain, in the line and according to the levels shown on the deposited plan and section, the bridge and public carriage road herein-after described, with all proper works and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plan and described in the deposited book of reference as may be required for that purpose. The bridge and public carriage road herein-before referred to and authorised by this Act are the following :

Power to make works and take land.

A bridge over the River Dun, commencing in the township of Kimberworth, on the southern side of the road (formerly a turnpike road) leading from Rotherham to Swinton, and terminating in the township of Rotherham, on the southern side of the said river :

A public carriage road or approach in the township of Rotherham, commencing in Saint Anne's Road, and being an improvement and continuation thereof, and terminating at the southern end of the said bridge.

9. If there be any omission, mis-statement, or wrong description of any lands, or of the owners, lessees, or occupiers of any lands, shown on the deposited plan or specified in the deposited book of reference, the Corporation, after giving ten days notice to the owners, lessees, and occupiers of the lands in question, may apply to two justices of the west riding of the county of York for the correction thereof, and if it appears to the justices that the omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and they shall in their certificate state the particulars of the omission, mis-statement, or wrong description.

Correction of errors in deposited plan.

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Deposit of  
certificate of  
correction.

**10.** Such certificate of the justices shall be in duplicate, and one part thereof shall be deposited with the clerk of the peace for the said west riding, and a duplicate thereof with the parish clerk of the parish of Rotherham, and the certificate and duplicate respectively shall be kept by the clerk of the peace and the parish clerk respectively with the other documents to which the same relate, and thereupon the deposited plan and book of reference shall be deemed to be corrected in accordance with the certificate, and the Corporation may execute the works in accordance with the certificate.

Power to  
deviate  
laterally  
within limits  
of deviation  
on plan.

**11.** In making the bridge and road the Corporation may deviate from the line thereof respectively shown on the deposited plan to any extent not exceeding the limits of deviation delineated thereon: Provided that no such deviation shall extend into the lands of any person whose name is not stated in the book of reference without his previous consent, unless his name is omitted by mistake, and the fact that the omission proceeded from mistake be certified as is by this Act in that behalf provided.

Power to  
deviate ver-  
tically from  
levels on  
section.

**12.** In making the bridge and road the Corporation may deviate from the levels thereof shown on the deposited section to any extent not exceeding three feet.

Temporary  
occupation  
of lands.

**13.** The provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof, are hereby incorporated with this Act, and in construing such provisions for the purposes of this Act the word "company" shall mean the Corporation, and the word "railway" shall mean the bridge or road, as the case may be, by this Act authorised.

River not  
to be ob-  
structed.

**14.** During the making and repairing of the bridge and road the Corporation shall take all precautions, and provide all works and conveniences proper and sufficient for keeping the flow of water in the River Dun free from all obstruction, except only such obstruction as is unavoidable, and if and whenever the Corporation make or occasion any obstruction they shall make to all persons interested full compensation for all loss, damage, or injury thereby occasioned.

Land not to  
be purchased  
after three  
years.

**15.** The powers of the Corporation for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Bridge and  
road to be  
completed in  
five years.

**16.** The bridge and road shall be completed within five years after the passing of this Act, and on the expiration of that period the powers of the Corporation for making the same, or otherwise in

relation thereto, shall cease to be exercised, except with respect to so much thereof as is then completed: Provided that, notwithstanding the expiration of that period, the Corporation may from time to time repair, rebuild, improve, and maintain such of the works as they execute within that period.

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**17.** From and after the completion of the bridge and road they shall be deemed a public bridge and public highway, and, subject to the provisions of this Act, all persons, whether with or without horses, animals, and carriages, shall have free liberty to pass over the same without any interruption.

Bridge and road to be public.

**18.** The Corporation may from time to time, when and as often as occasion requires, and according to the powers, provisions, and limitations of the Acts for the time being in force relating to municipal corporations, make, levy, and enforce payment of a rate in the nature of a borough rate, to be called the Bridge Rate, for defraying the charges and expenses of executing and maintaining the bridge and road, and works connected therewith, by this Act authorised, and of otherwise carrying the powers of this Act into execution so far as it relates to the said bridge and road, but the Corporation shall not for these purposes levy in any one year a greater rate than twopence in the pound upon the annual rental of the borough, according to the assessment of the property within the borough to the relief of the poor.

Bridge rates for expenses.

**19.** The amount of any rate made by the Corporation under this Act shall be such amount as in their judgment will be sufficient to raise or discharge not only the sum in respect of which the rate is made, but also such a sum as will meet the expense, or what is in their judgment a due proportion of the expense, incurred and to be incurred in and about making and recovering the rate.

Amount of rate to include expenses of recovering it.

**20.** Every bridge rate under this Act may be levied with, or as part of, or separately from any borough rate leviable within the borough.

Bridge rate may be levied with or separately from borough rate.

**21.** The Corporation may from time to time, under the authority of this Act, in addition to any moneys they have borrowed or are authorised to borrow under any other Act, borrow at interest on mortgage of the bridge rates to be levied under the provisions of this Act, and of the borough rates and borough fund, or of any of such securities, either together or separately, all such sums as they may from time to time think requisite for all or any of the purposes of this Act, so far as it relates to the bridge and road, and works connected therewith, by this Act authorised, not exceeding in the whole five thousand pounds.

Power to borrow on mortgage of bridge rate.

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Power to Corporation to borrow on mortgage for water purposes.

**22.** The Corporation may from time to time, under the authority of this Act, in addition to any moneys they have borrowed or are authorised to borrow under any other Act, borrow at interest on mortgage of the water rates and water revenue of the Corporation arising from their water undertaking, and of the general district rates, or of any of such securities, together or separately, all such sums as they may from time to time think requisite for all or any of the purposes of the Acts relating to the Corporation with respect to water, not exceeding in the whole the sum of thirty thousand pounds.

Existing mortgages to have priority.

**23.** All mortgages granted by the local board or the Corporation in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing thereof, shall, during the continuance of such mortgages, have priority over any mortgages granted by virtue of this Act.

Appointment of receiver.

**24.** The mortgagees of the Corporation under the provisions of this Act may enforce the payment of arrears of interest or of principal, or of principal and interest, due to them by the appointment of a receiver, and the amount of principal in arrear which shall authorise the appointment of a receiver shall be three thousand pounds.

Power to re-borrow.

**25.** The Corporation may from time to time re-borrow any amount borrowed under the provisions of this Act, and from time to time paid off by them respectively, unless it be paid off by means of annual instalments or the sinking fund, in which case, and to the extent of the amount paid off by annual instalments or the sinking fund, their powers of borrowing and re-borrowing shall cease.

Application of moneys borrowed on mortgage of bridge rates.

**26.** All moneys from time to time borrowed under this Act on mortgage of the bridge rates, or for the purposes of the bridge and road, shall be applied by the Corporation only as follows:

First, in payment of the costs, charges, and expenses of and incidental and preparatory to the obtaining and passing of this Act, or otherwise in relation thereto, or of such part thereof as the Corporation think fit;

Secondly, in the construction of the bridge and road by this Act authorised;

Thirdly, in the exercise of the powers of this Act with respect to the paying off of moneys borrowed on mortgage of the bridge rates, or for the purposes of the bridge and road, and of re-borrowing.

Bridge account.

**27.** The Corporation shall keep a separate account of all their receipts, credits, payments, and liabilities in and about the execution of this Act, so far as it relates to the bridge and road, to be



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called the Bridge Account, which account shall be subject to the same provisions as to audit, examination, report, inspection, copies and extracts, and production of vouchers, as other accounts of the Corporation under the Acts for the time being in force relating to municipal corporations in England, except that any additional remuneration to be paid to the auditors in respect of the audit of the bridge account shall be paid out of the moneys carried to the credit of that account.

**28.** The Corporation shall, out of the moneys carried to the credit of the bridge account, either pay off the sums borrowed for the purposes of the bridge and road by annual or other instalments within thirty years, or else appropriate and set apart every year a sum equal to one thirtieth part of the sums so borrowed as a sinking fund, to be applied in paying off the principal moneys so borrowed, and any such sinking fund shall be laid out, invested, accumulated, and applied according to the provisions of the Commissioners Clauses Act, 1847, section eighty-four.

Instalments  
or sinking  
fund.

**29.** All moneys received by the Corporation under the foregoing provisions of this Act, other than sums raised by the Corporation by mortgage, shall be applied as follows :

Application  
of bridge  
receipts.

First, in paying the interest from time to time due upon all moneys borrowed by the Corporation on the bridge rates, or for the purposes of the bridge and road, and for the time being remaining due ;

Secondly, in paying off the moneys so borrowed by annual instalments, or appropriating and setting apart a sinking fund, as is herein-before mentioned ;

Thirdly, in paying off by means of any surplus remaining after the foregoing purposes are satisfied the principal moneys borrowed by the Corporation on the bridge rates, or for the purposes of the bridge and road, and not paid off by means of annual instalments or a sinking fund ;

And lastly, in the reduction of the rates and charges by this Act or any of the Acts relating to the Corporation authorised to be levied and made within the borough.

**30.** All moneys from time to time borrowed under this Act on mortgage of the waterworks shall be applied by the Corporation only as follows :

Application  
of moneys  
borrowed on  
waterworks.

First, in payment of the costs, charges, and expenses of and incident and preparatory to the obtaining and passing of this Act, or otherwise in relation thereto, or of such part thereof as the Corporation think fit ;

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Secondly, in the construction and extension of the waterworks by the Act of 1863 authorised;

Thirdly, in the exercise of the powers of this Act, and of the Acts of 1863 and 1870, with respect to the paying off of moneys borrowed on mortgage of the waterworks, and of re-borrowing.

As to sinking fund for mortgages on the waterworks undertaking.

**31.** The provisions of the Act of 1870 with respect to the paying off mortgages on the waterworks undertaking by means of the sinking fund, or by annual instalments, shall be applicable in the case of mortgages on the waterworks undertaking granted under the powers of this Act, as if the mortgages granted under this Act had been granted under the Act of 1870, and the provisions contained in the sixty-first and seventy-sixth sections of the Act of 1863 as to the applicability of the general district rate with respect to the sinking fund shall be applicable in the case of mortgages granted under the Act of 1870 and of this Act, as if they were mortgages granted under the Act of 1863.

Annual return to Local Government Board with respect to sinking fund.

**32.** The town clerk shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or paid off by instalment under this Act, transmit to the Local Government Board a return, in such form as may be prescribed by that Board, and verified by statutory declaration if so required by them, showing the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and the amount paid off by instalment, and also showing the purposes to which any portion of the moneys invested for the sinking fund have been applied during the same period, and the total amount remaining invested at the end of the year; and in the event of any wilful default in making such return such clerk shall be liable to a penalty of not exceeding twenty pounds. If it appear to the Local Government Board, by such return or otherwise, that the Corporation have failed to set apart the sum required by this Act for the sinking fund, or to pay any instalment, or have applied any portion of the moneys set apart for that fund to any purposes other than those authorised by this Act, the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the Court of Queen's Bench.

Markets and fairs undertaking

**33.** All market places and lands, buildings, and property in connexion therewith belonging to the Corporation shall be and be

deemed to have been from the time of the acquisition or construction thereof respectively by the local board or by the Corporation vested in them for the benefit of the whole borough, and not simply for the benefit of that part of the borough which is situate in the township of Rotherham; and all expenses which by the Act of 1863 are to be borne by a general district rate leviable within the township of Rotherham only shall be borne and paid out of the borough rate or general district rate leviable throughout the whole borough, and all those provisions of the Act of 1863 which make or recognise any distinction between the township of Rotherham and the rest of the district in relation to markets and fairs shall henceforth have no operation so far as they make or recognise any such distinction: Provided always, that nothing herein contained shall be held or construed to invalidate or render void any act or deed of the local board, or of the council, or of any of the members thereof respectively, in relation to markets and fairs, further or otherwise than that all such acts and deeds shall be deemed to have been done for or on behalf of or in relation to the whole district or borough, and not the township of Rotherham only.

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to be held  
by Corpora-  
tion for  
benefit of  
the whole  
borough.

**34.** All the costs, charges, and expenses of and incident to the passing of this Act, and preparatory thereto, including the costs to an amount not exceeding seven hundred and fifty pounds incurred by the Corporation in opposing the "Doncaster Corporation Water Act, 1873," shall be paid by the Corporation out of the general district rates of the borough: Provided that nothing in this section contained shall be construed to exempt such costs, charges, and expenses from the operation of the sixth section of "The Municipal Corporations (Borough Funds) Act, 1872."

Expenses  
of Act.

