



CHAPTER xxiii.

An Act to empower the Corporation of the Borough of A.D. 1897.
Torquay to acquire lands for the purposes of their
Water Undertaking and for other purposes.

[3rd June 1897.]

WHEREAS the borough of Torquay in the county of Devon is a municipal borough under the government of the mayor aldermen and burgesses of the borough (in this Act called "the Corporation") and the Corporation acting by the Council are the urban sanitary authority:

And whereas the Corporation in their then capacity of a local board were by the Torquay Waterworks Act 1856 (herein-after referred to as "the Act of 1856") empowered to acquire and improve certain waterworks and to supply the borough and neighbourhood with water and further powers in respect of their water undertaking were conferred on the Corporation by the Tormoham Provisional Order 1860 confirmed by the Local Government Supplemental Act 1860 the Tormoham Provisional Order 1865 confirmed by the Local Government Supplemental Act 1865 the Tormoham Provisional Order 1866 confirmed by the Local Government Supplemental Act 1866 the Torquay Provisional Order 1879 confirmed by the Local Government Board's Provisional Orders (Ashton-under-Lyne &c.) Act 1879 the Torquay Provisional Order 1880 confirmed by the Local Government Board's Provisional Orders Confirmation (Alnwick Union &c.) Act 1880 and the Torquay Provisional Order 1883 confirmed by the Local Government Board's Provisional Orders Confirmation (No. 3) Act 1883 (herein-after collectively referred to as "the recited Acts") and the Corporation now supply water within the borough and also without the borough in the towns of Newton Bushel and Newton Abbot and the parishes of Highweek Wolborough and St. Mary Church and Cockington in the said county:

And whereas in order to increase the supply of water and to preserve and secure as far as possible the purity and wholesome character of the water supply of the Corporation by protecting

A.D. 1897. and safeguarding from contamination and pollution the springs and streams from which the same is derived it is expedient that the Corporation be empowered to acquire additional lands above and at the sides of the existing reservoirs and intake of the Corporation situate within the drainage area of such springs and streams and that with the same object the Corporation be authorised to exercise such powers for the prevention of fouling and pollution as are herein-after provided :

And whereas an estimate has been prepared by the Corporation of the moneys required for the purchase of land under the provisions of this Act amounting in the whole to forty thousand pounds :

And whereas it is expedient to authorise the Corporation to raise that sum by the creation and issue of Torquay Corporation Stock or by mortgage and to make such provision relative thereto as this Act contains :

And whereas the objects of this Act 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 sixth day of October one thousand eight hundred and ninety-six after ten clear days' notice by public advertisement of such meeting and of the purposes thereof in the Torquay Directory and South Devon Journal a local newspaper published and circulating in the 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 upon the rents and rates to accrue on waterworks accounts or upon the district fund and general district rate :

And whereas such resolution was published twice in the said newspaper and in respect of matters under the control of the Local Government Board has received the approval of that 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 fifth day of January one thousand eight hundred and ninety-seven being not less than fourteen days after the deposit of the Bill for this Act in the Houses of Parliament :

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

And whereas plans showing the situation of the lands required or which may be taken for the purposes or under the powers of this Act and a book of reference to the said plans containing the names

of the owners or reputed owners lessees or reputed lessees and of the occupiers of the said lands have been deposited with the clerk of the peace for the county of Devon and are in this Act referred to as the deposited plans and book of reference : A.D. 1897.

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 :—

1. This Act may be cited as the Torquay Corporation Water Act 1897. Short title.

2. The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845) and the Waterworks Clauses Acts 1847 and 1863 (except the provisions of the Waterworks Clauses Act 1847 with respect to the amount of profit to be received by the undertakers and except section 83 of that Act with respect to accounts and so much of section 70 of that Act as refers to the payment of rates by quarterly instalments) are (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) hereby incorporated with this Act Provided that the Waterworks Clauses Act 1847 as incorporated in the Act of 1856 and this Act shall be read and have effect as if the words " with the consent in writing of the owner or reputed owner of " any such house or of the agent of such owner " were omitted from section 44 thereof. Incorporation of Acts.

3. This Act shall be carried into execution by the Corporation acting by the Council. Execution of Act.

4. The several words and expressions to which by the Acts incorporated with this Act meanings are assigned shall in this Act have the same respective meanings unless there is something in the subject or context repugnant to such construction Provided always that in the Acts incorporated with this Act for the purposes of this Act— Interpretation of terms.

" The promoters " or " the undertakers " means the Corporation : And in this Act—

" The Corporation " means the mayor aldermen and burgesses of the borough of Torquay ;

" The borough " means the municipal borough of Torquay ;

" The district fund " and " the general district rate " mean respectively the district fund and the general district rate of the borough ;

" The Public Health Acts " means the Public Health Act 1875 and all Acts for the time being in force for amending or extending the same.

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Power to
acquire
lands for
water under-
taking.

5. Subject to the provisions of this Act and for the purposes of obtaining a better supply of water and of protecting from pollution contamination fouling or discoloration the waters which the Corporation are empowered to take use and supply and for all or other the purposes of the water undertaking the Corporation may enter on take and use all or any of the lands in the parishes of Bridford Christow and Hennock Moretonhampstead and Bovey Tracey in the said county delineated on the deposited plans and described in the deposited book of reference.

Restriction
on taking
houses of
labouring
class.

6. The Corporation shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied For the purposes of this section the expression "labouring class" means and includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others save members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Power to
purchase
lands by
agreement
and hold
lands for
prevention of
pollution.

7. The Corporation may purchase by agreement take on lease or otherwise and hold any lands not exceeding altogether one hundred acres which they may deem necessary for the purposes of this Act in addition to any lands which they are otherwise by this Act or the Act of 1856 or the recited Acts authorised to acquire and may hold any of the said lands and also any of the lands which they are under this Act the Act of 1856 or the recited Acts authorised to acquire for the purposes of the water undertaking which may in their opinion be necessary for protecting the waters of any stream wholly or partly flowing either directly or indirectly into any of the reservoirs or for the protection of their waterworks against pollution nuisances encroachment or injury or for any of the other purposes of this Act and so long as such necessity shall in the opinion of the Corporation continue such lands shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts Provided that the Corporation shall not create or permit a nuisance and shall not erect or authorise or permit the erection on any lands acquired under this section whilst so held by them of any buildings other than buildings necessary for or connected with their water undertaking.

8. The proceeds of the sale of any superfluous lands of the Corporation under the powers of this Act shall be distinguished as capital in the accounts of the water undertaking and shall be applied in discharge of moneys borrowed by the Corporation for waterworks purposes but shall not be applied to the payment of instalments or to payments into the sinking fund or loans fund except to such extent and upon such terms as may be approved by the Local Government Board and any moneys discharged out of the proceeds of any such sale shall not be reborrowed.

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Proceeds of sale of superfluous land to be treated as capital.

9. The Corporation on selling any lands at any time acquired for or in connection with their water undertaking and not required for that purpose may reserve to themselves all or any part of the water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to the use of water exercise of noxious trades or the discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit.

Reservation of water rights on sale.

10. For the further protection of the water supply of the Corporation and to provide additional security for the purity thereof the provisions of section 61 of the Waterworks Clauses Act 1847 shall be extended so as to impose the same penalties upon all persons fouling in any of the modes described in the said section any water or stream which in its usual course will flow into any stream aqueduct reservoir or waterworks of the Corporation.

Further protection against fouling of water.

11. For the purpose of preventing the pollution of any reservoir aqueduct cut channel or filter bed of or belonging to the Corporation or the pollution of any spring stream or brook from which the Corporation derive any portion of their water supply and in the event of the rural district council of the district in which the pollution occurs refusing or neglecting for the space of one month after being requested by the Corporation by notice in writing signed by the town clerk so to do to enforce the provisions of the Rivers Pollution Prevention Acts 1876 and 1893 with respect to such pollution of any such stream or waters the Corporation shall in addition to any other powers possessed by them have and exercise in respect of such pollution all such powers and jurisdiction as they would have or might exercise under those Acts if they were the rural district council of the rural district within which the pollution occurred. Provided that nothing herein contained shall limit or affect the powers of any such rural district

Further powers for prevention of pollution.

A.D. 1897. — council within their own district or shall authorise the Corporation to charge any expense incurred by them under this section on any such rural district council or on any district represented by any such rural district council And provided that proceedings shall not be taken against any person under the powers conferred upon the Corporation by this section while proceedings are pending against such person in respect of the same or a similar offence under any other Act unless the Local Government Board shall be of opinion on the representation of the Corporation that the proceedings so pending under any other Act are not being prosecuted bonâ fide and with due diligence and shall by order authorise (which they are hereby empowered to do) proceedings to be taken under the powers conferred upon the Corporation by this section.

New lands to form part of the water undertaking &c.

12. Subject to the provisions of this Act the lands to be acquired under the authority of this Act shall be deemed to be part of the water undertaking of the Corporation and the provisions of the Act of 1856 and of the recited Acts with respect to the supply of water and the charging and recovery of rates and rents therefor and the application of such rates and rents toward the repayment of moneys borrowed and the appointment of a water committee and otherwise with respect to the water undertaking of the Corporation shall apply to the undertaking as extended by this Act and to the moneys borrowed for the purposes thereof and the interest thereon anything in the Public Health Acts or the Municipal Corporations Act 1882 to the contrary notwithstanding Provided that nothing in the Act of 1856 or in any of the recited Acts shall authorise the Corporation to turn off or discontinue the supply of water to any person for domestic purposes and any provisions so authorising the Corporation are hereby repealed.

Limit of time for compulsory purchase.

13. The powers of the Corporation for the compulsory purchase or taking of lands under this Act shall cease after the expiration of seven years from the passing of this Act.

Persons under disability may grant easements &c.

14. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Corporation any easement right or privilege (not being an easement right or privilege of water in which other persons than the grantors have an interest) required for the purposes of this Act in or over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

15. The Corporation may in addition to any moneys which they are now authorised to borrow or which they may be authorised to borrow under the provisions of the Public Health Acts or any public or local Act or Order borrow at interest for the following purposes being purposes to which capital is properly applicable and not otherwise the following sums (that is to say):—

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—
Power to borrow.

For the purchase of lands for the purposes of this Act forty thousand pounds ;

For defraying the taxed costs charges and expenses of and in relation to this Act the sum necessary for that purpose ; and

For any other purposes of this Act such sums as shall be necessary and as shall from time to time be sanctioned by the Local Government Board :

And in calculating the sums which 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 or reborrowing under this Act or the Act of 1856 or the recited Acts shall not be or be deemed to be restricted by any of the provisions as to borrowing contained in the Public Health Acts.

16. The Corporation shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as “the prescribed periods”) following (that is to say):—

Periods for payment off of money borrowed.

As to moneys borrowed for waterworks purposes within the limit of forty thousand pounds within sixty years from the date or dates of the borrowing of the same ;

As to moneys borrowed for waterworks purposes with the approval of the Local Government Board within such period as that Board may think fit to sanction not exceeding sixty years ;

As to moneys borrowed for the 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 within ten years from the date of the borrowing of the same.

17. The Corporation may raise all or any sums which they are authorised to borrow under this Act by mortgage.

Mode of raising money.

18.—(1.) All mortgages granted by the Corporation under this Act shall rank together without any priority on account of the date of the deed or any other account and shall rank after all Corporation stock existing at the passing of this Act.

As to moneys raised by mortgages.

(2.) Subject as aforesaid the provisions contained in sections 236 to 239 of the Public Health Act 1875 with respect to the mortgages granted by a local authority shall apply in the case of mortgages granted under this Act.

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(3.) All mortgages granted by the Corporation to secure money borrowed under this Act shall be charged upon the revenue of the water undertaking with or without the district fund and general district rate of the borough.

Sinking
fund for
payment of
money bor-
rowed on
mortgage.

19. The Corporation in case they borrow any moneys on mortgage under the foregoing provisions of this Act repayable by means of a sinking fund shall within twelve months after borrowing the same or some earlier day set apart as a sinking fund for the payment of such moneys out of the fund or rate on the security of which such moneys shall have been borrowed such equal annual sum or sums as will with accumulations by way of compound interest after a rate not exceeding three per centum be sufficient to pay within such a period as they may think fit (not exceeding the period in each case prescribed for the payment thereof) the amounts of the principal moneys so borrowed.

All sums so set apart and the income thereof shall from time to time be invested in any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money or on the security of mortgages bonds debenture stock or other security (not including annuity certificates or securities payable to bearer) of any municipal corporation in Great Britain (other than the Corporation) or of any other local authority within section 34 of the Local Loans Act 1875.

If and as often as the income derived from such investments is not equal to the income which would be derived therefrom at the rate per centum on which the equal annual payments to the sinking fund are based any deficiency shall be made good out of the respective funds or rates which are liable for the equal annual payments and if and as often as the income derived from such investments is in excess of the income which would be derived therefrom at the rate per centum on which the equal annual payments to the sinking fund are based any such excess may be applied as part of such equal annual payments.

The Corporation may at any time apply the whole or any part of the sinking fund in or towards the repayment of moneys for which such sinking fund is set aside in such order and manner as they think proper Provided that in such case they pay into the sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of such moneys are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum on which the equal annual payments to the sinking fund are based Provided also that whenever and so long as the securities in which such sinking fund is invested

shall be not less in value at the market price of the day than the principal moneys then outstanding and to be paid off by means of such fund the Corporation may in lieu of investing the said yearly income apply the same in payment of interest on such principal moneys and may during such periods discontinue the payment to such sinking fund of the yearly sums required to be paid thereto. A.D. 1897.

20. The Corporation shall commence the repayment of any loans raised under this Act within the said limit of forty thousand pounds within one year from the date of borrowing in each case. Commencement of repayment of loans.

21. Moneys borrowed by the Corporation under this Act shall be applied only for the purposes for which they are by this Act respectively authorised to be raised and to which capital is properly applicable. Application of borrowed moneys.

22. A person lending money to the Corporation under this Act shall not be bound to inquire as to the observance by them of any of the provisions of this Act or be bound to see to the application or be answerable for the loss or non-application of the money lent or any part thereof. Protection of lenders from inquiry.

23. All charges on the property revenues and rates of the Corporation existing immediately before the passing of this Act shall during their continuance have priority over any mortgages of the same property revenues and rates respectively granted by the Corporation under the powers of this Act. Saving priority of existing charges.

24. If the Corporation pay off any moneys borrowed by them under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed money they may from time to time reborrow the same but all moneys so reborrowed shall be repaid within the prescribed period and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Corporation with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such reborrowing. Power to reborrow.

25. 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 any instalment is required to be paid 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 paid as an instalment or invested for the purpose of such sinking fund during the year preceding the Annual return to Local Government Board with respect to sinking fund.

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Powers of
Act to be
cumulative.

26. All powers given by this Act shall unless otherwise expressly stated be deemed to be in addition to and not in derogation of any other powers conferred upon the Corporation by Act of Parliament charter law or custom and such other powers may be exercised in the same manner as if this Act had not passed and nothing in this Act shall exempt any person from any penalty to which he would have been liable if this Act had not passed. Provided that no person shall be liable to pay except in the case of a daily penalty more than one penalty in respect of the same offence.

Costs of Act.

27. The costs charges and expenses preliminary and of and incidental to the preparing obtaining and passing of this Act and otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation or out of moneys borrowed under the powers of this Act or out of the rents and revenues of the water undertaking or out of the district fund and general district rate.

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