CHAPTER ii.

An Act to confer further powers on the Mayor Aldermen and Burgesses of the Borough of Hythe with respect to their Water Undertaking. [31st May 1889.] A.D. 1889.

WHEREAS the borough of Hythe in the county of Kent is a municipal borough subject to the Acts relating to municipal corporations and the Mayor Aldermen and Burgesses of the said borough (in this Act referred to as "the Corporation") are the urban sanitary authority for the district thereof:

And whereas the Corporation are the owners of the water undertaking whereby the said borough is supplied with water and they supply water to and within the same:

And whereas it is expedient in order to meet the increasing demand for water within the said borough that the Corporation be empowered to obtain a further supply of water:

And whereas it is expedient that further borrowing powers be conferred upon the Corporation and that the other provisions hereinafter contained should be made:

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

And whereas a plan showing the lands which may be taken under the powers of this Act and also a book of reference to the plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of and describing such lands were duly deposited with the clerk of the peace for the county of Kent and are herein-after referred to as the deposited plan and book of reference:

And whereas an absolute majority of the whole number of the council of the borough at a meeting held on the tenth day of December one thousand eight hundred and eighty-eight after ten clear days' notice by public advertisement of such meeting and of the purposes thereof in the "Hythe and Sandgate Advertizer" being a local newspaper published or circulating in the borough (such notice being in addition to the ordinary notices required for

A.D. 1889.

summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged upon the general district rate:

And whereas such resolution was published twice in the said newspaper and has received the approval of the Local Government Board in respect of matters within the jurisdiction 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 sixteenth day of January one thousand eight hundred and eighty-nine being not less than fourteen days after the deposit of the Bill in Parliament:

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

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

Short title.

1. This Act may be cited as the Hythe Corporation Act 1889.

Limits of Act.

2. This Act except where otherwise expressed or implied shall apply exclusively to the borough.

Incorporation of general Acts.

3. The following enactments (that is to say):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 (in this Act referred to as "the Lands Clauses Acts") the Waterworks Clauses Act 1847 except the words in the 44th section thereof "with "the consent in writing of the owner or reputed owner of any "such house or of the agent of such owner" and the Waterworks Clauses Act 1863;

so far as the same are applicable for the purposes of and not varied by or inconsistent with this Act are hereby incorporated with this Act and in construing the Lands Clauses Acts for the purposes of this Act the word "lands" shall include the Black Rock Spring.

Interpretation.

4. In this Act—

"The borough" means the municipal borough of Hythe;

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

"The council" means the council of the borough;

"The treasurer" means the treasurer of the borough;

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

Words to which meanings are assigned in the incorporated Acts or which have therein special meanings shall in this Act have the same respective meanings so far as may be consistent with this Act.

Act to be executed by council.

5. Subject to the provisions of this Act this Act shall be carried into execution by the Corporation acting by the council as the sanitary authority for the borough.

Power to acquire lands.

6. Subject to the provisions of this Act the Corporation may enter upon take and use compulsorily or by agreement the following lands shown on the deposited plan and described in the deposited book of reference (that is to say):—

A piece of land situate in that part of the parish of St. Leonard Hythe which lately formed part of the parish of Cheriton belonging or reputed to belong to the trustees of the estate of Catherine Thompson deceased and in the occupation of Charles Heritage together with the spring of water situate in the said piece of land and known as "Black Rock Spring" the said land being bounded on the north by a public footpath leading from Seabrook to Paraker Wood on the south by a field belonging or reputed to belong to the said trustees on the east by the public road leading from Seabrook to Horn Street and on the west by the said wood:

And the Corporation may divert take collect impound and use for the general purposes of their said water undertaking the waters of the said spring and the said lands and spring shall vest in them as the urban sanitary authority for the district of the borough and form part of the said undertaking.

Period for compulsory purchase of lands.

7. 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.

Restriction on displacing persons of the labouring class.

8. The Corporation shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except

A.D. 1889.

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.

Expenses of executing Act.

9. All expenses incurred by the Corporation in carrying into execution the powers of this Act except such as are to be paid out of borrowed moneys or are otherwise expressly provided for shall be paid out of the district fund and general district rate.

Power to borrow.

10. The Corporation in addition to any moneys they are now authorised to borrow or which they may be authorised to borrow under the provisions of any public general Act may from time to time borrow at interest on the security of the district fund and general district rate the following moneys for the following purposes (that is to say):—

For payment of the costs charges and expenses of this Act as herein-after defined the sum requisite for the purpose;

For the purposes of their waterworks undertaking such a sum as the Local Government Board may sanction:

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

Provisions as to mortgages.

11. The following provisions of the Public Health Act 1875 (that is to say):—

Section 236 (Form of Mortgage);

Section 237 (Register of Mortgages);

Section 238 (Transfer of Mortgages);

Section 239 (Receiver may be appointed in certain cases);

shall extend and apply mutatis mutandis to and in relation to all mortgages made under the powers of this Act.

Period for repayment of borrowed moneys.

12. All moneys borrowed under the powers of this Act shall be repaid in any period not exceeding the following (that is to say):—

Moneys borrowed for payment of the costs of this Act in any period not exceeding ten years from the date of the borrowing thereof; and

Moneys borrowed for waterworks purposes within such period as the Local Government Board may sanction.

Repayment of borrowed moneys.

13. The Corporation shall pay off all money borrowed by them under the powers of this Act as follows (that is to say):—

1. Either by yearly or half-yearly instalments: Provided that when the payment shall not be made by equal instalments the instalment or instalments payable in each year together with the interest payable in such year in respect of the

principal moneys of which such instalment or instalments form part shall in every year amount to the same sum.

2. Or by a sinking fund to be annually set apart and invested in such securities as are herein-after prescribed and with the accumulations from time to time applied for that purpose.

3. And the annual sums to be set apart for any such sinking fund shall be such equal annual sums as with the accumulations thereof at compound interest calculated at the rate of three per centum per annum will be sufficient to pay off the said principal sums in the said periods.

4. The first annual payment to any such sinking fund shall be made on the first day of January next following the date of the borrowing of the money in respect of which the sinking fund is provided.

Application of sinking funds.

14. The Corporation may from time to time apply the whole or any part of the sinking funds in or towards the discharge of the principal moneys for the discharge of which such funds respectively shall have been established: Provided that they pay in each year into the fund so applied and accumulate until the whole of the principal moneys in respect of which it shall have been accumulated shall have been discharged a sum equivalent to the interest of the sinking fund or part of the sinking fund so applied at the rate per centum on which the payments to the sinking fund are based: Provided also that whenever and so long as the yearly income arising from any sinking fund shall be equal to the annual interest of such 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 such interest and may during such periods discontinue the payment to such sinking fund of the yearly sums by this Act required to be so paid thereto.

Sinking fund how to be invested.

15. All sums paid into any sinking fund created by the Corporation under the provisions of this Act shall be as soon as may be invested in any manner in which trustees are by law for the time being authorised to invest trust moneys or in any debentures debenture stock or annuity certificates issued under the powers of the Local Loans Act by any local authority other than the Corporation.

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

16. Section 87 of the Hythe Improvement and Waterworks Act 1874 and so much of the Local Government Board's Provisional Orders Confirmation (No. 6) Act 1884 as relates to article V. of the Hythe Provisional Order of the twenty-seventh day of May one thousand eight hundred and eighty-four are hereby repealed and in lieu thereof be it enacted as follows—The treasurer shall within

A.D. 1889.

twenty-one days after the expiration of each year during which any sum is required to be paid as an instalment or as an annuity or to be set apart for a sinking fund in respect of moneys borrowed under the provisions of the said Act of 1874 the said Provisional Order the Local Loans Act 1875 or 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 for the year next preceding the making of such return the amounts which have been paid as instalments or in respect of annuities and the amounts which have been invested or applied for the purpose of such sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of any wilful default in making such return such treasurer shall be liable to a penalty not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act.

If it appears to the Local Government Board by that return or otherwise that the Corporation have failed to pay any instalment or annuity required to be paid or to set apart any sum required for any sinking fund or have applied any portion of the moneys set apart for any sinking fund or of the sums accumulated by way of interest to any purposes other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default has been made shall be paid by way of instalment or annuity or be set apart and invested or applied as part of the sinking fund and any such order shall be enforceable by writ of mandamus to be obtained by the Local Government Board out of Her Majesty's High Court of Justice.

Power to re-borrow.

17. The Corporation may from time to time borrow at interest on mortgage as aforesaid any money necessary for repaying any principal money borrowed under this Act on the same becoming repayable or for the paying off of any of such principal moneys as they can reborrow at a lower rate of interest and so from time to time: Provided as follows—

The time for the repayment of any moneys so reborrowed shall not be extended beyond the unexpired portion of the terms respectively in that behalf prescribed:

For the purpose of repayment the moneys reborrowed and the moneys originally borrowed shall be deemed the same loan:

The Corporation shall not reborrow any moneys paid off by means of instalments or annuities or a sinking fund or out of the proceeds of the sale of land or out of premiums or fines on leases.

Corporation not to regard trusts.

18. The Corporation shall not be bound to see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register book of the Corporation shall from time to time be a sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register and the Corporation shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application of any of such money.

Power to borrow under Local Loans Act 1875.

19. The Corporation may if they think fit borrow under the powers and subject to the provisions of the Local Loans Act 1875 by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another any moneys which they are authorised to borrow under this Act. Any moneys borrowed by the Corporation in manner by this section authorised shall be a charge upon and shall be paid out of the same funds and rates as they would be charged upon and paid out of if raised by way of mortgage under this Act and such funds and rates shall in each case be deemed to be the local rate as defined by the Local Loans Act 1875. Every such loan shall be discharged within the time prescribed in that behalf by this Act: Provided always that if the Corporation at any time think fit to form a sinking fund all sums paid into the same shall be as soon as may be invested by the Corporation in the manner in which sinking funds are by this Act authorised to be invested or applied in paying off a portion of the principal moneys owing by the Corporation.

Application of borrowed moneys.

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

A.D. 1889.

Proceeds of sale of any surplus lands to be treated as capital.

21. The proceeds of the sale of any surplus lands under the powers of this Act shall be applied towards the extinguishment of any loan borrowed by the Corporation under the powers or for the purposes of this Act but shall not be applicable to the payment of instalments or to payments into the sinking fund or in respect of annuities except to such extent and upon such terms as may be approved by the Local Government Board.

Expenses of Act.

22. The costs charges and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the general district rate or out of moneys borrowed under the powers of this Act.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, East Harding Street, Fleet Street, E.C.; or
ADAM AND CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.