CHAPTER xxvi.

An Act to amend and define the borrowing powers of the urban district council of Tralee in the county of Kerry and to enable them to borrow additional moneys and for other purposes. [30th June 1905.]

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WHEREAS the urban district of Tralee in the county of Kerry (in this Act called "the district") is an urban district within the meaning of the Local Government (Ireland) Act 1898 and is under the control and management of the urban district council of Tralee (in this Act called "the Council"):

And whereas the district is an urban sanitary district under the provisions of the Public Health (Ireland) Act 1878 and the Council are the urban sanitary authority for the district and have adopted Part V. of the Public Health Acts Amendment Act 1890:

And whereas the Council are by virtue of the Tralee Waterworks Provisional Order 1878 and other Acts and Orders the owners of waterworks and supply water within the district and by virtue of the Town of Tralee Provisional Order 1898 and other Acts and Orders they are also the owners of gasworks and supply gas within the district:

And whereas it is expedient that the Council should be authorised to borrow money for the purposes hereinafter set forth and that the powers of borrowing money conferred on the Council by this Act for the purposes hereinafter mentioned should not be restricted by the regulations of the Public Health (Ireland) Act 1878 and that in calculating the amount which the Council may borrow under that Act money borrowed or to

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be borrowed for the purposes hereinafter mentioned should not be reckoned:

And whereas it is expedient that the additional powers in this Act contained should be conferred on the Council:

And whereas in the manner provided by the Borough Funds (Ireland) Act 1888 an absolute majority of the whole number of the Council at a meeting held on the sixth day of October one thousand nine hundred and four after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Kerry Evening Post a newspaper circulated in the district such notice being in addition to the ordinary notices required for summoning such meeting resolved that the Council should promote the Bill for this Act and that the expense of and in connection with such promotion should be defrayed out of the funds rates rents and revenues of the district under the control of the Council:

And whereas such resolution was twice published in the said Kerry Evening Post viz. on the eighth and twelfth days of October one thousand nine hundred and four and has received the approval of the Local Government Board for Ireland and of the Chief Secretary:

And whereas the propriety of the promotion of the Bill for this Act was by an absolute majority of the whole number of the Council approved at a further special meeting held in pursuance of a similar notice on the tenth day of January one thousand nine hundred and five being not less than fourteen days after the deposit of the Bill for this Act in Parliament:

And whereas a meeting of the persons qualified to vote at an election of members of the Council called in the manner provided by the said Borough Funds (Ireland) Act 1888 by resolution approved of the promotion of the Bill for this Act:

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 as the Tralee Urban District Council Act 1905.

Interpretation.

2. In this Act unless the subject or context otherwise requires—

"The district" means the urban district of Tralee in the county of Kerry;

"The Council" means the urban district council of the district;

"The clerk" means the clerk of the Council;

"The Local Government Board" means the Local Government Board for Ireland.

Power to borrow

3. The Council may from time to time (in addition to any moneys which they are now authorised to borrow) borrow at interest the sums hereinafter mentioned and in order to secure the moneys so borrowed they may mortgage all or any of their funds rates and revenues.

The sums so authorised to be borrowed are as follows:—

(A) For the purposes of the gasworks and gas undertaking of the Council any sum not exceeding four thousand pounds:

(B) For the purchase and equipment of a building for or for the building and erection and equipment of a town hall and offices for the Council and the acquisition of a site for the same any sum not exceeding five thousand pounds:

(C) For the erection of artisans' and labourers' dwellings any sum not exceeding one thousand pounds:

(D) For paying the costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act as hereinafter provided or otherwise in relation thereto the sum necessary for that purpose:

And the following provisions shall apply to such sums:—

(1) The power of borrowing moneys for the purposes mentioned in subsections (A) to (C) of this section shall be subject to the sanction of the Local Government Board:

(2) Money borrowed under this section shall be applied only to the purposes for which it is authorised to be borrowed and to which capital moneys are properly applicable and not otherwise:

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(3) Money borrowed under this section shall be repaid within the following periods (that is to say):—

Under subsections (A) to (C) inclusive within such periods not exceeding sixty years from the dates of borrowing the same as shall be fixed by the Local Government Board when sanctioning the loans under those subsections respectively; and

Under subsection (D) within five years from the date of the passing of this Act:

(4) If having borrowed any money under this section the Council pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund or out of the proceeds of sale of land or other property or out of fines or premiums on leases or out of other money received on capital account not being borrowed money they may reborrow the same and so from time to time Provided that all money so reborrowed shall be repaid within the period prescribed for the repayment of the money in lieu of which such reborrowing has been made.

Inquiries by Local Government Board.

4.—(1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary for giving effect to any of the provisions of this Act and the inspectors of the said Board shall have all such powers as they have for purposes of inquiries directed by the said Board under the Public Health (Ireland) Act 1878.

(2) The Council shall pay to the said Board any expenses incurred by the said Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by the said Board not exceeding three guineas a day for the services of such inspector.

Certain regulations of PublicHealth (Ireland) Act 1878 not to apply.

5. The powers of borrowing money conferred on the Council by this Act shall not be restricted by any of the regulations contained in the Public Health (Ireland) Act 1878 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act for the purposes of their gas undertaking and any sums which they may have borrowed before the passing of this Act for the purposes of the gas undertaking of the Council and the water undertaking of the Council shall not be reckoned.

Provisions as to mortgages.

6. The following sections of the Public Health (Ireland) Act 1878 shall extend and apply to mortgages granted by the Council under this Act:—

Section 240 Form of mortgage;

Section 241 Register of mortgages;

Section 242 Transfer of mortgages;

Section 243 Receiver may be appointed in certain cases.

Sinking fund.

7. The Council shall pay off all moneys borrowed by them by mortgage under the powers of this Act either by equal annual instalments or by equal annual contributions to a sinking fund appropriated for that purpose and with the accumulations thereof (if any) from time to time applied for that purpose.

Regulations as to sinking fund.

8. As regards moneys borrowed by the Council by mortgage under the powers of this Act the following regulations shall be observed by the Council in relation to the sinking fund to be formed under this Act:—

(1) Such equal yearly sums shall be paid by the Council out of the funds rates and revenues on the security of which such moneys shall have been borrowed as being accumulated at compound interest at a rate not exceeding three pounds per centum per annum would be sufficient to pay off the moneys borrowed within the periods by this Act prescribed in relation thereto respectively:

(2) All sums paid into any sinking fund created by the Council under the powers 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 on any mortgage bond debenture debenture stock corporation stock or other security authorised by or under any Act of Parliament passed or to be passed of any municipal corporation in the United Kingdom or of any other local authority within section 34 of the Local Loans Act 1875 or of any urban sanitary authority as defined by the Public Health (Ireland) Act 1878 but no such investment shall be made upon any securities of the Council or on securities transferable by delivery:

(3) The Council may at any time apply the whole or part of such sinking fund in or towards the repayment of the

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borrowed moneys for the repayment of which such sinking fund was set apart in such order and manner as they deem proper Provided as follows (that is to say):—

(a) That in such case they pay into such sinking fund in each year afterwards and accumulate as hereinbefore prescribed until the whole of the borrowed moneys to which such sinking fund is applicable are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum per annum on which the annual payments to the sinking fund are based;

(b) That whenever and so long as the securities constituting any sinking fund 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 Council may in lieu of investing the said yearly income apply the same in payment of the interest on such principal moneys and may during such periods discontinue the payment to such sinking fund of the yearly sums required to be so paid thereto;

(c) That if and so often as the interest in any year derived from such investments is not equal to the income which would be derived therefrom at the rate per centum per annum on which the equal annual payments to the sinking fund are based such deficiency shall be made good out of the funds and rates on the security of which the moneys to be repaid have been borrowed but if and so often as the said interest in any year exceeds such income the difference between such interest and income shall be applicable in reduction of the sums which would otherwise be required to be paid into the sinking fund:

Return respecting sinking fund to Local Government Board.

9.—(1) The clerk shall within twenty-eight days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act or in respect of any money raised thereunder

and at any other time when the Local Government Board may require such a return to be made transmit to the Local Government Board a return in such form as may be prescribed by that Board and if required by that Board verified by statutory declaration of the clerk showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the 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 compound 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 his failing to make such return the clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

(2) If it appears to the Local Government Board by that return or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by this Act or by the Local Government Board in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund 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 or applied as in such order mentioned and any such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

Saving for existing charges.

10. Nothing in this Act shall prejudicially affect any charge upon the property funds rates or revenues of the Council by way of mortgage subsisting at the passing of this Act and every mortgagee or person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of the property funds rates or revenues subject to such charge as if this Act had not been passed.

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Council not to be bound to regard trusts.

11. The Council shall not be bound to see to the execution of any trusts whether express or implied or constructive to which any mortgage may be subject and the receipt of the person in whose name such mortgage stands in the register shall from time to time be a sufficient discharge to the Council for any money payable in respect of such mortgage notwithstanding any trusts to which such mortgage may then be subject and whether or not the Council have had notice of such trusts and the Council shall not be bound to see to the application of the money paid upon such receipt.

Power to issue stock.

12. The Council if they think fit may borrow the moneys which they are by this Act authorised to borrow or any part thereof by means of a loan or loans to be raised by the issue of redeemable stock under the provisions of Part V. of the Public Health Acts Amendment Act 1890 on the security of their funds rates and revenues and such power of borrowing shall be and be deemed a statutory borrowing power for the purposes of the issue of redeemable stock as provided by Part V. of the said Act and the regulations made thereunder or in pursuance thereof.

Protection of lenders from inquiry.

13. A lender of money to the Council under this Act shall not be bound to inquire respecting the observance by them of any of the provisions of this Act nor to see to the application or be answerable for any loss non-application or mis-application of the money lent or any part thereof.

Expenses of execution of Act and removal of limit of rate.

14. Any expenses of the execution by the Council of this Act with respect to which no other provision is made may be defrayed by the Council out of their rates funds or revenues (other than poor rate) or such of them as the Council may in their discretion having regard to the object of the expenditure deem just and any limit imposed on or in respect of any rate leviable in the district shall not apply to any such rate required to be levied for the purposes or in pursuance of the exercise by the Council of the powers of borrowing or otherwise conferred by this Act and as if such purposes were sanitary purposes within the meaning of the Public Health (Ireland) Act 1878.

Power to purchase take upon lease &c. and pay rent for town hall and offices

15. The Council may purchase by agreement or take upon lease for any term of years a site or sites in the district for a town hall and offices or either of them or they may purchase by agreement or take upon lease or hire for any term of years any building or buildings or portion of any building or buildings for a town hall and offices or either of them and they may pay the purchase money or rent for such site or sites and building or

buildings out of any of their rates and funds or they may if they think fit levy and recover a special rate in respect thereof in the district in all respects in the same manner and with the same incidents and powers of recovery as the general district rate of the Council.

Power to lease or let buildings.

16. The Council may lease or sub-let for such period upon such terms and at such rent or rents as they may think fit the whole or any part of any such building or buildings from time to time belonging or leased to or vested in them and any moneys received by way of rent shall be applied once at least in each year as received in or towards the relief of the rates leviable by the Council under the Towns Improvement (Ireland) Act 1854.

Restriction on taking houses of working class.

17. The Council shall not under the powers of this Act purchase or acquire in any urban district any house or houses which on the fifteenth day of December last were occupied either wholly or partially by thirty or more persons belonging to the working class as tenants or lodgers or except with the consent of the Local Government Board any house or houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

If the Council acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if it think fit reduce such penalty.

For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "working class" means 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 members of their own family and persons other than domestic servants whose income in any case does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Costs of Act.

18. All costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act including the costs incurred by the Council in complying

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with the provisions of the Borough Funds (Ireland) Act 1888 with respect to the Bill for this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council and may be paid in the first instance out of any moneys in their hands but shall be charged to and recouped by the moneys which the Council are authorised to borrow under this Act for that purpose.

Printed by Eyre and Spottiswoode,

for

Rowland Bailey, Esq., M.V.O., I.S.O., the King's Printer of Acts of Parliament.

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