



CHAPTER xviii.

An Act to authorise the Swinton Urban District Council to construct additional waterworks and for other purposes. A.D. 1911.

[2nd June 1911.]

WHEREAS the district of Swinton in the West Riding of the county of York (in this Act called "the district") is an urban district within the meaning of the Local Government Act 1894 and is under the management and control of the urban district council of Swinton (in this Act called "the Council"):

And whereas the Council are the owners of waterworks and supply water within the district:

And whereas by the Swinton Local Board Act 1894 (in this Act referred to as "the Act of 1894") the Swinton Local Board (the predecessors of the Council) were authorised to construct certain waterworks and to borrow the sum of ten thousand pounds for waterworks purposes:

And whereas the Council have on lands belonging to them constructed other waterworks without the authority of Parliament and it is expedient that such works should be sanctioned and confirmed as in this Act provided:

And whereas the Council have borrowed the sum of ten thousand pounds authorised by the Act of 1894 and have expended the same on waterworks purposes:

And whereas the supply of water afforded by the Council is inadequate to meet the growing needs and demands of the district and it is expedient that they should be authorised to construct and use in connexion with their water undertaking the additional waterworks herein-after described;

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And whereas it is expedient that such further provisions as are in this Act contained should be made with respect to the water undertaking of the Council:

And whereas it is expedient that the Council should be empowered to borrow money for the construction of the water-works by this Act authorised and for other purposes of this Act and that better provision should be made as in this Act mentioned in regard to the loans of the Council and other financial matters:

And whereas estimates have been prepared by the Council for the purchase of land and easements for and the execution of the works by this Act authorised and such estimates amount to the sum of ten thousand pounds and the several works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas an absolute majority of the whole number of the Council at a meeting held on the sixteenth day of November one thousand nine hundred and ten after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Mexborough and Swinton Times a local newspaper circulating in the district 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 district fund and general district rate:

And whereas such resolution was published twice in the Mexborough and Swinton Times a newspaper circulating in the district 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 an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the eighteenth day of January one thousand nine hundred and eleven being not less than fourteen days after the deposit of the Bill for this Act in Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule to the Borough Funds Act 1903 have been observed:

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And whereas the purposes of this Act cannot be effected without the authority of Parliament: A.D. 1911.

And whereas plans and sections describing the lines situations and levels of the works by this Act authorised and also showing the lands and easements by this Act authorised to be acquired and a book of reference containing the names of the owners or reputed owners and lessees or reputed lessees and occupiers of the lands required or which may be taken for the purposes or 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 in this Act referred to as the deposited plans sections and book of reference:

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 (that is to say):—

1. This Act may be cited as the Swinton Urban District Council Act 1911. Short title.

2. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act (namely):— Incorporation of Acts.

The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845):

The Waterworks Clauses Acts 1847 and 1863 except—

(A) The words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" in section 44 of the Waterworks Clauses Act 1847;

(B) Sections 75 to 82 of the Waterworks Clauses Act 1847 with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and section 83 relating to accounts.

3. In construing this Act the following words and expressions have the meanings hereby assigned to them respectively unless Interpretation.

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A.D. 1911. — there be something in the subject or context repugnant to such construction (that is to say) :—

“The district” means the urban district of Swinton in the West Riding of the county of York :

“The Council” means the urban district council of the district :

“The Act of 1894” means the Swinton Local Board Act 1894 :

“The water undertaking” means the water undertaking of the Council under the Act of 1894 and this Act :

“The district fund” and “the general district rate” mean respectively the district fund and general district rate of the district :

“Revenues of the Council” means the revenues of the Council from time to time arising from any land undertakings or other property for the time being of the Council and rates or contributions leviable by or on the order or precept of the Council :

“Statutory security” means 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 and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council :

“Statutory borrowing power” means any power whether or not coupled with a duty of borrowing or continuing on loan or re-borrowing or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any Act of Parliament public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any

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Government Department made or given or to be made or given by authority of any Act of Parliament passed or to be passed. A.D. 1911.

Terms to which meanings are assigned by the Acts wholly or partially incorporated with this Act or by the Public Health Acts have the same respective meanings unless varied by this Act or unless there is something in the subject or context repugnant to such construction and in the Acts so incorporated with this Act the expressions "the undertakers" and "the promoters of the undertaking" shall for the purposes of this Act mean the Council.

4. This Act shall extend and apply to and within the district except where otherwise expressed or implied. Application of Act.

5. The Council may maintain renew alter and repair the wells and pumping stations constructed by them on lands belonging to them in or near to Crossland Street and Charles Street and also at Birdwell Flatts and the reservoirs and other existing waterworks of the Council in Wath Road all of which are within the district. Maintenance of certain existing works.

6. Subject to the provisions of this Act the Council may make and maintain wholly in the district and in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections the waterworks and other works following (that is to say):— Power to construct new water-works.

Work No. 1—

A well pumping station and filter beds situate in a field near Piccadilly Road numbered 191 on the Ordnance map of the parish of Swinton (scale $\frac{1}{2500}$ edition 1903):

Work No. 2—

A conduit or line or lines of pipes commencing in the pumping station (Work No. 1) and terminating in the existing reservoir of the Council in the Hospital Field adjoining Wath Road:

Work No. 3—

An enlargement of the existing storage reservoir of the Council in and adjoining the Hospital Field.

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Subsidiary
works.

7. In addition to the foregoing works the Council may upon the lands delineated on the deposited plans and described in the deposited book of reference make and maintain all such cuts channels catchwaters tunnels adits pipes conduits culverts drains sluices byewashes shafts wells bores water towers overflows waste-water channels gauges filter beds tanks banks walls bridges embankments piers approaches engines machinery and appliances as may be necessary or convenient in connexion with or subsidiary to the before-mentioned works or any or either of them but nothing in this section shall exonerate the Council from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Limits of
deviation.

8. In the construction of the works authorised by this Act the Council may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding in the case of the reservoir three feet upwards and five feet downwards and in the case of other works three feet upwards and ten feet downwards:

Provided as follows (that is to say):—

The Council shall not construct any embankment or wall of such reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in respect of the corresponding embankment or wall and three feet in addition:

Except for the purpose of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

Power to
take lands.

9. Subject to the provisions of this Act the Council may enter upon take and use such of the lands shown on the deposited plans and described in the deposited book of reference as they may require for or in connexion with the works authorised by this Act.

Period for
compulsory
purchase of
lands.

10. The powers of the Council for the compulsory purchase of lands under this Act shall cease after the expiration of three years from the passing of this Act.

11. Subject to the provisions of this Act the Council may collect impound take use divert and appropriate for the purposes of their waterworks all such springs streams and waters as may be intercepted by the existing waterworks of the Council or by the works by this Act authorised.

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Power to
take waters.

12. If the waterworks by this Act authorised are not completed within ten years from the passing of this Act the powers by this Act granted for the making thereof or otherwise in relation thereto shall cease except as to so much thereof as is then completed. Provided always that subject to the restrictions and provisions of this Act the Council may at any time after the expiration of the said period alter enlarge and renew their mains pipes and other works as they may think expedient to provide for the requirements of their water supply.

Period for
completion
of works.

13. The Council may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of protecting their waterworks against pollution fouling and contamination and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Act or the Lands Clauses Acts respectively but the Council shall not create or permit a nuisance on any such lands and shall not erect any buildings thereon other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their water undertaking.

Power to
hold lands
for protec-
tion of
works.

14. The provisions of this Act with regard to water shall apply to the existing waterworks of the Council which shall for all purposes be deemed to form part of the water undertaking of the Council under this Act and the Act of 1894.

Act to
extend to
existing un-
dertaking.

15. The Council may for the purposes of their water undertaking acquire by agreement either in fee simple or for any term or terms of years in addition to lands which they are already authorised to hold or which they may take under the powers of this Act any lands not exceeding in the whole twenty-five acres or any easement right or privilege therein or thereupon (not being an easement right or privilege of water in which persons other than the grantors have an interest) but the Council shall not create or permit a nuisance on any such lands and shall not erect any buildings thereon other

Power to
acquire ad-
ditional lands
by agree-
ment.

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Limiting power of Council to abstract water.

16. The Council shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this or some other Act of Parliament Provided that nothing in this section shall be deemed to prohibit the deepening or enlargement of any existing borehole or well of the Council.

For protection of West Riding County Council.

17. The provisions of section 6 (For the protection of the West Riding County Council) of the Act of 1894 shall apply to the works authorised by this Act as if the same provisions were re-enacted in this Act with reference thereto.

Power to retain and sell lands.

18. Notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 or in any other Act or Acts to the contrary the Council may retain hold and use for such time as they may think fit and may from time to time sell lease exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands acquired by them under this Act or the Act of 1894 and may sell and exchange and dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

Reservation of water rights on sale.

19. The Council on selling any lands acquired for or in connexion with the 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 use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit.

20. The Council shall apply all moneys received by them in respect of any sales exchanges or disposition of lands or premises or any interest therein or by way of fine or premium on any lease of lands or premises made under the authority of this Act and any other moneys received by the Council on capital account under this Act in or towards paying off any moneys borrowed and for the time being owing by the Council under this Act to which such capital moneys would be properly applicable or if there shall be no moneys owing under this Act such proceeds shall be applied in or towards paying off any other moneys for the time being owing by the Council on capital account Provided that such moneys received shall not be applicable to the payment of instalments appropriations or annual repayments or to payments into sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

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Application
of moneys
from sale of
lands.

21. The water to be supplied by the Council need not be constantly laid on under pressure greater than can be supplied by gravitation from the reservoir or other work from which the supply shall be taken.

Pressure.

22. Before any person connects or disconnects any meter by means of which any of the water of the Council is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Council of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the Council and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Notice to
Council of
connecting
or discon-
necting
meters.

23. The Council may supply water for other than domestic purposes on such terms and conditions as the Council think fit and may supply water by measure either for domestic or other purposes and the moneys payable for the supply of water under this section shall be recoverable in the same manner as water rates Provided always that no person shall be entitled to a supply of water for other than domestic purposes if such supply would interfere with the sufficiency of the supply of water for domestic purposes.

Supply by
measure.

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Supply to
houses partly
used for
trade.

24.—(1) The Council shall not be bound to supply with water otherwise than by measure any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade or manufacturing purpose for which water is required.

(2) Where a supply of water to a farmhouse is used for farming purposes the Council may require that the supply for farming purposes shall be taken by meter but nothing in this section shall authorise the Council to refuse a supply of water for domestic purposes to a farmhouse at the ordinary rate calculated on the rateable value thereof.

(3) The Council shall not charge a higher rate than one shilling and sixpence per thousand gallons for any supply by meter given under this Act.

Penalties
for injuring
meters.

25. Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Council or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Council shall (without prejudice to any other right or remedy for the protection of the Council) be liable to a fine not exceeding five pounds and the Council may in addition thereto recover the amount of any damage by them sustained And in any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fittings belonging to the Council or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Council the Council may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for ensuring the proper registering by such meter of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Council by the person so offending and may be recovered by them as water rates are recoverable The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or

using water of the Council when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be primâ facie evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings.

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26.—(1) The Council may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter but shall not manufacture any such pipes valves cocks cisterns baths meters soil-pans waterclosets and other fittings as are required or permitted by their regulations and may provide all materials and work necessary or proper in that behalf and the reasonable charges of the Council in providing such materials and executing such work shall be paid by the person requiring the same.

Power to
Council to
supply ma-
terials.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be. Provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Council as the actual owners thereof:

Provided as follows:—

(a) The Council shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connexion therewith (including interest upon any moneys borrowed for those purposes) and all sums applied to sinking fund for repayment of moneys so borrowed:

(b) Every sum charged by the Council in respect of provision of such fittings or the repairing fixing or removal thereof shall be clearly stated in every demand note delivered by the Council to the consumer:

(c) The total sums expended and received by the Council in connexion with the purposes in this section

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mentioned in each year (including interest and sinking fund) shall be separately shown in the published accounts of the water undertaking of the Council for such year.

Council may remove stand pipes.

27. The Council shall not be bound to supply water by means of stand pipes and they may remove existing stand pipes and require every user thereof to take a supply of water by means of a separate pipe to be laid from the nearest water main of the Council to the house of such user.

Provisions as to houses without water supply.

28. The owner of any dwelling-house which is not provided with a proper and sufficient water supply who shall occupy or allow to be occupied such dwelling-house shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings unless the dwelling-house was erected before the passing of this Act and such supply is not available.

Revision of water rates.

29. Notwithstanding anything contained in the Act of 1894 or this Act the Council may with the sanction of the Local Government Board at any time increase or reduce the water rates leviable by them by such amount as may be considered by the Council to be necessary in order to meet the estimated expenditure of the water undertaking of the Council.

Rates payable by owners of small houses.

30. Where a house supplied with water is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall if the Council so determine pay the rate for the supply but the rate may be recovered from the occupier and may be deducted by him from the rent from time to time due from him to the owner. Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

Power to sell or let meters &c.

31. The Council may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit. The provisions of section 14 of the Waterworks Clauses Act 1863 shall extend to authorise the Council to let for hire any water fittings to any person supplied by them with water.

Register of meter to be primâ facie evidence.

32. Where water is supplied by measure the register of the meter or other instrument for measuring water shall be primâ

facie evidence of the quantity of water consumed and in respect of which any water rate is charged and sought to be recovered by the Council Provided that if the Council and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid and the decision of such court shall be final and binding on all parties. A.D. 1911.

33. Subject to the provisions of the Waterworks Clauses Act 1847 the Council may for the purpose of preventing and detecting waste affix and maintain meters and similar apparatus on the service pipes and mains of the Council and stop-cocks in the pipes supplying houses with water and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and may for that purpose break up and interfere temporarily with public and private streets roads lanes footways courts passages tramways gas or water pipes electric lines wires and apparatus Provided that the Council shall not interfere with any electric lines wires and apparatus belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878: Detection of waste.

Provided that nothing in this Act shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Act of 1882 apply except in accordance with and subject to the provisions of that section.

34. The following paragraphs contained in section 12 (General powers) of the Act of 1894 are hereby repealed (that is to say):— Repeal of certain provisions of Act of 1894.

Paragraph (B) (Supply of water for hydraulic and other purposes);

Paragraph (C) (Rent for water may be ascertained by meter);
and

Paragraph (E) (As to water meters).

35. The Council may for the purposes herein-after mentioned from time to time (in addition to any other moneys which they are now authorised to borrow) borrow at interest on security of Power to borrow.

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(1) For the purchase of land for and for the construction of the waterworks by this Act authorised any sums not exceeding ten thousand pounds:

(2) For the payment of the costs charges and expenses referred to in the section of this Act whereof the marginal note is "Costs of Act" any sums not exceeding the amount ascertained as in that section provided:

And with the approval of the Local Government Board such further sums as the Council may require for any of the purposes of this Act or otherwise in relation to the water undertaking:

Provided that the provisions of this section shall not limit the powers conferred upon the Council by the section of this Act whereof the marginal note is "Power to use one form of mortgage for all purposes."

Mode of raising money.

36. The Council may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another or others Provided that the provisions contained in the section of this Act whereof the marginal note is "Sinking fund" shall apply to sinking funds formed for the repayment of moneys borrowed under the Local Loans Act 1875 instead of the provisions of section 15 of that Act.

Provisions as to mortgages.

37. The following sections 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 (subject to the provisions of the section of this Act the marginal note of which is "Power to use one form of mortgage for all purposes") apply to and in relation to all mortgages made under the powers of this Act as if they were with necessary modifications re-enacted in this Act.

38. The Council shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as "the prescribed period") following (that is to say):—

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Periods for
payment off
of borrowed
money.

As to moneys borrowed for the purposes (1) in the section of this Act whereof the marginal note is "Power to borrow" within fifty years from the date or dates of borrowing the same;

As to moneys borrowed for the purpose (2) in the said section within five years from the passing of this Act;

and with respect to moneys borrowed by the Council under the authority of this Act with the consent of the Local Government Board within such term not exceeding sixty years as the Local Government Board may prescribe.

39. The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Act by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months if by yearly repayments or within six months if by half-yearly repayments from the time of borrowing the sum in respect of which the payment is made.

Mode of
payment off
of money
borrowed.

40.—(1) If the Council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Act such sinking fund shall be formed or maintained either—

Sinking
fund.

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter called "a non-accumulating sinking fund"; or

(B) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three pounds per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is hereinafter called "an accumulating sinking fund."

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(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in any statutory security the Council being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investment of the fund may be applied by the Council towards the equal annual payments to the fund.

(4) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) (A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Council:

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Council in addition to the payments provided for by this Act.

(7) If it appears to the Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the

sinking fund is formed it shall be the duty of the Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Local Government Board that any such increase is necessary the Council shall increase the payments to such extent as the Board may direct. A.D. 1911.

(8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Council may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose as the Council with the consent of the Local Government Board may determine.

41. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section 234 of the Public Health Act 1875 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act shall not be reckoned. Section 234 of Public Health Act not to apply.

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Power to re-borrow.

42.—(1) The Council shall have power—

- (a) to borrow for the purpose of paying off any moneys previously borrowed under any statutory borrowing power which are intended to be forthwith repaid; or
- (b) to borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Council in repaying moneys previously borrowed under any statutory borrowing power and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Council shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Council shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid---

- (A) by instalments or annual payments; or
- (B) by means of a sinking fund; or
- (C) out of moneys derived from the sale of land; or
- (D) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

(5) Section 20 (Power to re-borrow) of the Act of 1894 is hereby repealed.

Council not to regard trusts.

43. The Council shall not be bound to see to the execution of any trust whether express or implied or constructive to which any loan or security for loan borrowed given or issued by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of

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mortgages of the Council shall be a sufficient discharge to the Council in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Council 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 on their register and the Council 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 such money. A.D. 1911.

44. The following provisions of the Act of 1894 shall extend and apply to this Act as if the same were in this Act re-enacted and the Council were named therein instead of the Local Board with reference thereto (namely):— Extending certain provisions of Act of 1894 to this Act.

Section 22 (Protection of lenders from inquiry);

Section 26 (Application of money borrowed);

Section 30 (Expenses of execution of Act);

Section 33 (Contents of summons &c.).

45.—(1) Where the Council have for the time being any statutory borrowing power they may for the purpose of exercising such power grant mortgages in pursuance of the provisions of this section. Power to use one form of mortgage for all purposes.

(2) Every mortgage granted under this section shall be by deed truly stating the consideration and the time or the mode of ascertaining the time and place of payment and shall be sealed with the common seal of the Council and may be made in the form contained in the schedule to this Act or to the like effect.

(3) All mortgages granted under this section shall rank equally without any priority or preference by reason of any precedence in the date of any statutory borrowing power or in the date of the mortgages or on any other ground whatsoever.

(4) The repayment of all principal sums and the payment of interest thereon secured by mortgages granted under this section shall be and the same are by virtue of this Act charged indifferently upon all the revenues of the Council.

(5) Nothing in this section contained shall alter or affect the obligations of the Council to provide for the repayment of

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A.D. 1911. the principal sums and interest secured by mortgages granted under this section and all such sums and interest shall be paid within the periods by the means and out of the funds rates or revenues within by and out of which they would have been payable respectively if this section had not been enacted.

(6) There shall be kept at the office of the Council a register of the mortgages granted under this section and within fourteen days after the date of any such mortgage an entry shall be made in the register of the number and date thereof and of the names and descriptions of the parties thereto as stated in the deed. Every such register shall be open to public inspection during office hours at the said office without fee or reward and the clerk to the Council or other person having the custody of the same and refusing to allow such inspection shall be liable to a penalty not exceeding five pounds.

(7) Any mortgagee or other person entitled to any mortgage granted under this section may transfer his estate and interest therein to any other person by deed duly stamped truly stating the consideration and such transfer may be according to the form contained in the schedule to this Act or to the like effect.

(8) There shall be kept at the office of the Council a register of the transfer of mortgages granted under this section and within thirty days after the date of every deed of transfer if executed within the United Kingdom or within thirty days after its arrival in the United Kingdom if executed elsewhere the same shall be produced to the clerk to the Council who shall on payment of a sum not exceeding five shillings cause an entry to be made in such register of its date and of the names and descriptions of the parties thereto as stated in the deed of transfer and until such entry is made the Council shall not be in any manner responsible to the transferee.

(9) On the registration of any transfer the transferee his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby and any transferee may in like manner transfer his estate and interest in any such mortgage and no person except the last transferee his executors or administrators shall be entitled to release or discharge any such mortgage or any money secured thereby.

(10) If the clerk to the Council wilfully neglects or refuses to make in the register any entry by this section required to be made he shall be liable to a penalty not exceeding twenty pounds. A.D. 1911.

46.---(1) The Council may at any time hereafter and from time to time make a scheme for prescribing one or more uniform periods within which all or any loans contracted by them under statutory borrowing powers shall be discharged and such scheme may extend or vary the periods within which such loans shall be discharged and may make provision in regard to all matters incidental thereto. Scheme for fixing equated periods.

(2) No scheme made by the Council under this section shall have any force or effect until confirmed by the Local Government Board who may by order confirm the same with or without modifications and when so confirmed the scheme shall notwithstanding any enactment order or sanction to the contrary have full force and effect and such scheme shall be deemed to be within the powers of this Act Provided that nothing in any scheme made under this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder of any stock existing at that time except with the consent of such mortgagee or holder.

(3) The Council may with the sanction of the Local Government Board and on the security of the revenues funds or rates respectively on the security of which the moneys included in the scheme were respectively authorised to be borrowed borrow such sums as may be necessary for the purpose of giving effect to such scheme and for compensating the holders of securities of the Council for their consent thereto and any moneys so borrowed shall be repaid within such period as the Local Government Board may sanction.

(4) Any scheme confirmed under this Act may be altered extended amended or annulled by any other scheme prepared and confirmed in like manner as the original scheme.

47.---(1) The clerk to the Council shall within twenty-one 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 Return to Local Government Board as to repayment of debt.

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A.D. 1911. 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.

Information
by whom to
be laid.

48. Save as in this Act or the Act of 1894 expressly provided all informations and complaints under or for the breach of any of the provisions of this Act or the Act of 1894 or the

Public Health Acts or of any byelaws made thereunder or of the Town Police Clauses Act 1847 or of the Towns Improvement Clauses Act 1847 as incorporated with the Public Health Act 1875 or the Town Police Clauses Act 1889 may be laid and made by any officer of the Council duly authorised in that behalf or by the clerk or by any police officer acting for or within the district. A.D. 1911.

49. Nothing in this Act shall protect any person from being proceeded against by way of indictment in respect of any matter by this Act made punishable on summary proceedings or shall relieve any person in respect of any such matter from any penal or other consequence to which he would have been liable if such matter had not been made punishable by this Act Provided that no person shall be punished more than once for the same offence. Saving for indictments.

50. Save as otherwise expressly provided all offences against this Act or the Act of 1894 and all penalties forfeitures costs and expenses imposed or recoverable under this Act or the Act of 1894 or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts. Recovery of penalties &c.

51. All penalties recovered under this Act or the Act of 1894 or under any byelaw thereunder shall except in the case of penalties recovered against the Council be paid to the treasurer of the Council and be by him carried to the credit of the district fund. Penalties to be paid over to treasurer.

52. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate. Judges not disqualified.

53. Where in any legal proceedings taken by or on behalf of the Council whether under this Act or under any general or local Act passed before or after this Act it becomes necessary to prove the appointment or authority of any officer servant solicitor or agent of the Council or of any committee of the Council or to prove any resolution of the Council or of any committee of the Council a certificate of such appointment authority or resolution purporting to be authenticated by the Evidence of appointments authority &c.

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A.D. 1911. signature of the chairman of the Council or the clerk shall be primâ facie evidence of such appointment authority or resolution without further proof of the holding of any meeting or the production of any minute book or other record or document.

Authentica-
tion and ser-
vice of
notices &c.

54.—(1) Where any notice or demand under this Act or under any local Act Provisional Order or byelaw for the time being in force within the district requires authentication by the Council the signature of the clerk or other duly authorised officer of the Council shall be sufficient authentication.

(2) Notices demands orders and other documents required or authorised to be served under this Act or under any local Act Provisional Order or byelaw for the time being in force within the district may be served in the same manner as notices under the Public Health Act 1875 are by section 267 of that Act authorised to be served Provided that in the case of any company any such notice demand order or document shall be delivered or sent by post addressed to the secretary of the company at their principal office or place of business.

Recovery of
demands
in county
court.

55. Proceedings for the recovery of any demand made under the authority of this Act or the Act of 1894 or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in the county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

Persons
acting in
execution of
Act not to be
personally
liable.

56. No matter or thing done or contract entered into by the Council nor any matter or thing done by the clerk or by any member or officer of the Council or any person whomsoever acting under the direction of the Council shall if the matter or thing be done or the contract be entered into bonâ fide for the purpose of executing this Act subject them or any of them personally to any action liability claim or demand whatsoever and any expense incurred by the Council or clerk member officer or person acting as last aforesaid shall be borne and repaid out of any of the funds at the disposal of the Council.

Inquiries by
Local
Government
Board.

57.—(1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them or the giving of any consents under this Act and

the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875. A.D. 1911.

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

58. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown. Crown rights.

59. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act (including the costs charges and expenses preliminary to and of and connected with the compliance with the requirements of the Borough Funds Acts 1872 and 1903 with respect to the Bill for this Act) or otherwise in relation thereto as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the district fund and general district rate or out of moneys to be borrowed under the authority of this Act. Costs of Act.

A.D. 1911. The SCHEDULE herein-before referred to.

FORM OF MORTGAGE.

URBAN DISTRICT OF SWINTON.

By virtue of the Swinton Urban District Council Act 1911 and of any other powers in that behalf them enabling the Swinton Urban District Council (herein-after called "the Council") in consideration of the sum of _____ pounds paid to the treasurer of the Council by _____ (herein-after called "the mortgagee") do hereby grant and assign unto the mortgagee (his) executors administrators and assigns such proportion of the revenues of the Council in the said Act defined as the said sum of £ _____ so paid doth or shall bear to the whole sum which is or shall be charged on the said revenues To hold unto the mortgagee (his) executors administrators and assigns from the day of the date of these presents until the said sum of _____ shall be fully paid and satisfied with interest for the same at the rate of _____ per centum per annum from the _____ day of _____ one thousand nine hundred and _____ until payment of the said principal sum such interest to be paid half-yearly on the thirty-first day of March and the thirtieth day of September in each year And it is hereby agreed that the said principal sum of _____ pounds shall be repaid at the office of the treasurer of the Council on the _____ day of _____ one thousand nine hundred and _____ :

Provided always and it is hereby agreed and declared that the before-mentioned time for repayment may be extended to such subsequent day or days and upon any such extension the before-mentioned rate of interest may be altered to such other rate or rates of interest as shall from time to time be mentioned and specified in an endorsement to be made hereon under the hands of the chairman and clerk of the Council for the time being respectively and that upon any such endorsement being made whether relating to extension of time only or to extension of time with alteration of rate of interest the provisions thereof shall be incorporated herewith and shall operate and take effect as though they had been originally inserted herein.

In witness whereof the Council have caused their common seal to be hereunto affixed this _____ day of _____ one thousand nine hundred and _____

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THE ENDORSEMENT WITHIN REFERRED TO.

A.D. 1911.

The within-named _____ consenting the within-mentioned time for repayment of the within-mentioned principal sum of _____ is hereby extended to the _____ day of _____ one thousand nine hundred and _____ (and the interest to be paid thereon on and from the _____ day of _____ one thousand nine hundred and _____ is hereby declared to be at the rate of _____ per centum per annum).

Dated this _____ day of _____ one thousand nine hundred and _____

FORM OF TRANSFER OF MORTGAGE.

I (the within-named _____ of _____) in consideration of the sum of _____ pounds paid to me by _____ of _____ (herein-after called "the transferee") do hereby transfer to the transferee (his) executors administrators and assigns (the within written security) (the mortgage number _____ of the revenues of the Swinton Urban District Council bearing date the _____ day of _____) and all my right and interest under the same subject to the several conditions on which I hold the same at the time of the execution hereof and I the transferee for myself my executors administrators and assigns do hereby agree to take the said mortgage security subject to the same conditions.

Dated this _____ day of _____ one thousand nine hundred and _____

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