CHAPTER xxxvii.

An Act to extend the time limited by the Birmingham Waterworks Act, 1870, for the Construction of the Works by that Act authorised, and to empower the Corporation of the Borough of Birmingham to borrow further Moneys for the purposes of the Birmingham (Corporation) Water Act, 1875, and of the Waterworks of the Corporation; and for other purposes. [23d May 1879.]

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WHEREAS the borough of Birmingham in the county of Warwick (in this Act called the borough) is a municipal borough under the local management and government (subject and according to the provisions of the Acts relating to municipal corporations and to sanitary authorities) of the mayor, aldermen, and burgesses of the borough (in this Act called the Corporation):

And whereas at the time of the passing of the Birmingham (Corporation) Water Act, 1875, (in this Act called the Act of 1875,) the Company of Proprietors of the Birmingham Waterworks were, under the powers conferred by several special Acts of Parliament, supplying with water the town of Birmingham and its neighbourhood: 38 & 39 Vict. c. clxxxviii.

And whereas under and in pursuance of and subject to the provisions of the Act of 1875 the waterworks and undertaking of the said company have been transferred to and are now vested in the Corporation, subject to certain of the provisions of the special Acts relating to the said company:

And whereas it is expedient to extend the time limited by the Birmingham Waterworks Act, 1870, (one of the said special Acts,) for the completion of the works authorised by that Act, and forming part of the said waterworks and undertaking: 33 & 34 Vict. c. cxxviii.

And whereas the demand for water within the water supply limits of the Corporation has during the last few years greatly

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increased, and is still increasing, and the existing service mains and distributive plant are insufficient to meet the present and growing demands:

And whereas it is expedient that the Corporation should be authorised to borrow further moneys for the purposes following; (that is to say,) for laying down new and enlarged mains and distributing plant, for providing hydrants and other apparatus for the more effectual extinguishment of fires, for covering the reservoirs so as to preserve the purity of the water, for the completion of works already authorised, and generally for permanent works in connexion with their waterworks undertaking:

And whereas it is also expedient that the Corporation should be authorised to supply fittings to be used in connexion with the supply and use of water:

And whereas it is expedient otherwise to amend the Acts relating to the borough and to the Corporation and council of the borough as the municipal and sanitary authority of the borough:

And whereas estimates have been prepared by the Corporation showing the sums which they may require to borrow for the purposes herein-before mentioned (being permanent works within the meaning of section 234 of the Public Health Act, 1875), and the amount of such estimates is three hundred thousand pounds:

38 & 39 Vict. c. 55.

14 & 15 Vict. c. xciii.

And whereas by the Birmingham Improvement Act, 1851, it is enacted (among other things) to the effect (section 63) that no application shall be made to Parliament by the council for further powers, or for power to raise further sums of money for the purposes of that Act, or for the purposes of any further or other Act, until the council shall, by notice given for two consecutive weeks in at least two of the newspapers published in the borough, have called a public meeting of the ratepayers of the borough, at which meeting the council of the borough shall cause to be stated the object of the intended application to Parliament; nor unless at such meeting the council shall be authorised by a majority of the ratepayers present at such meeting to make such application; provided always, that the mayor of the borough shall be the chairman of such meeting, and the voting at such meeting shall be according to the principle established by the Acts of the fifty-eighth George the Third, chapter 69, and fifty-ninth George the Third, chapter 85, for the regulation of vestries; provided also, that if a poll shall be demanded at the said meeting in respect of any question, it shall be open to all the ratepayers within the borough, during a period of three days next following the holding of such meeting, to signify their votes in writing in respect of such question, and the same

shall be decided by the majority of votes so signified, and the principle of voting shall be in accordance with the principle to be adopted at the meeting under the provisions in the said section contained:

And whereas under the last-recited enactment the council of the borough caused to be held a meeting of the ratepayers of the borough on the fourth day of October one thousand eight hundred and seventy-eight, and at that meeting a resolution was duly passed authorising the council to make an application to Parliament for the present Act:

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

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 Birmingham (Corporation) Water Act, 1879.

Extension of time for completion of works.

2. Section 33 of the Birmingham Waterworks Act, 1870, shall have effect as if the time limited by that section for the completion of the works authorised by that Act were fifteen instead of ten years from the passing of that Act.

Further borrowing powers.

3. For the purposes of the waterworks undertaking of the Corporation, the Corporation from time to time may borrow at interest, in addition to the sums of one hundred and fifty thousand pounds and one hundred thousand pounds mentioned in section 23 of the Act of 1875, such further sum or sums of money as the Corporation may from time to time think requisite, not exceeding an additional amount of three hundred thousand pounds, and may mortgage their borough fund and borough rate and the revenue of their waterworks undertaking as a security for the repayment of the money so borrowed with interest accordingly; and, subject to the provisions herein-after in this Act contained, the provisions of the Act of 1875 described in the schedule to this Act shall apply to all moneys to be borrowed under this Act in the same manner as to the above-mentioned sums of one hundred and fifty thousand pounds and one hundred thousand pounds; except that in lieu of the periods prescribed by section 26, the Corporation shall pay off, in the manner provided by that section, all moneys borrowed under this Act, within the period of ninety years from the passing of this Act.

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Priority of existing annuities and mortgages.

4. All annuities granted by the Corporation under the Act of 1875, and all mortgages granted by the Corporation in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing of this Act, shall, during the continuance of such annuities or mortgages, and subject to the provisions of the Acts under which the same were granted, have priority of charge on the security therein comprised over all mortgages granted or confirmed under this Act; but nothing in this section shall affect any priority of the interest of any debenture stock at any time created and issued by the Corporation.

Appointment of receiver.

5. The mortgagees of the Corporation under this Act may enforce the payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less in the aggregate than ten thousand pounds.

Application of money borrowed.

6. Any money borrowed under the foregoing provisions of this Act shall (except as in this Act otherwise expressly provided with respect to the costs of this Act) be applied for the purposes for which it was borrowed, and only for works being permanent works within the meaning of section 234 of the Public Health Act, 1875, and being works to which capital money is properly applicable, and for no other purposes.

As to the mortgage debt of the Birmingham Waterworks Company.

7. And whereas by section 6 of the Act of 1875 it was provided that the mortgage debt of the Birmingham Waterworks Company should be a charge on the waterworks undertaking of the Corporation and on the borough fund and borough rates, but doubts have arisen whether sufficient provision is made by the said Act for the renewal of the said debt and otherwise in relation thereto: And whereas on the first day of January one thousand eight hundred and seventy-six the said debt amounted to the sum of one hundred and eighty-nine thousand pounds, and since the said day part of the said sum of one hundred and eighty-nine thousand pounds has been paid off by the Corporation and re-borrowed: And whereas it is expedient that further provision should be made with respect to the said debt: Be it therefore enacted as follows; (that is to say,)

(1.) The Corporation may from time to time, in addition to any money which they are authorised to borrow independently of this section, borrow and re-borrow at interest on the security of the waterworks undertaking of the Corporation and of the borough fund and borough rate

such sums of money as from time to time become necessary to be raised for the purpose of paying off any portion of the said debt of the company, so that the sums so borrowed do not exceed in the whole the sum of one hundred and eighty-nine thousand pounds, and may mortgage the waterworks undertaking and the borough fund and borough rate to secure repayment thereof with interest accordingly:

(2.) The Corporation, if they think fit, may at any time issue mortgages under this section in exchange for any securities given by the company for the said debt, or any part thereof, upon such securities being delivered up to the Corporation to be cancelled:

(3.) Subject to the provisions of this section, all the provisions of the Act of 1875 described in the schedule to this Act shall apply to all moneys to be borrowed under this section:

(4.) Nothing in this Act shall affect the priority under section 6 of the Act of 1875 of any security issued or granted by the company:

(5.) Sections 4 and 5 of this Act shall apply with respect to all mortgages granted under this section:

(6.) The mortgages granted by the Corporation since the passing of the Act of 1875 for the purpose of paying off and re-borrowing the above-mentioned sum of one hundred and eighty-nine thousand pounds, or any part thereof, are hereby confirmed, and all the provisions of this section shall apply to them as if they had been granted under this section.

Power to retain portions of reserve fund to provide for payment of annuities and interest in anticipation of revenue.

8. The Corporation may from time to time retain out of moneys set aside for the reserve fund authorised by section 32 of the Act of 1875 any sum or sums of money not exceeding at any time the aggregate amount for the time being of one half year's annuities owing under the Act of 1875, and one half year's interest on moneys for the time being owing under that Act or this Act, with power to apply any of the money so retained in payment of such annuities and interest; and any money so applied shall be repaid out of the revenue applicable to such payments when received.

Power to Corporation to supply fittings, &c.

9. The Corporation may, if requested by any person supplied or about to be supplied by them with water, furnish to him at his costs and charges, and from time to time repair or alter, any pipes, fittings, valves, meters, cocks, cisterns, baths, soilpans, watercloset

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apparatus, and receptacles required for purposes of water supply, and may provide all materials and do all work necessary or proper in that behalf.

Recovery of water rates. 18 & 19 Vict. c. xxxiv. 10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93.

10. Notwithstanding anything contained in section 90 of the Birmingham Waterworks Act, 1855, the Corporation, if they think fit, may recover any water rate or rent, or sum due to them for water, in the manner provided by section 74 of the Waterworks Clauses Act, 1847, or section 21 of the Waterworks Clauses Act, 1863.

Amendment of power to remove fittings, &c.

11. The Corporation may exercise the powers of sections 44 and 46 of the Waterworks Clauses Act, 1847, with respect to any house of any value, and with respect to any pipes, fittings, works, or engines, notwithstanding that credit may have been given instead of a rent being charged in respect of the cost of providing and laying down such pipes, works, and engines.

Saving for Birmingham Corporation water annuities.

12. Notwithstanding anything contained in this Act, the Birmingham Corporation water annuities, payable by the Corporation under the Act of 1875, shall, subject to the payment of the working and establishment expenses and costs of maintenance of the waterworks undertaking of the Corporation, be and continue a first charge on such undertaking (subject only to the mortgage debt of the company, or such part thereof as shall from time to time remain unpaid by the Corporation, and on payment of the whole amount, freed and discharged from such mortgage debt); and, on and after the passing of this Act, all money from time to time received by the Corporation in respect of their waterworks undertaking (except borrowed money) shall, subject to the provisions in this Act contained in relation to the retention of portions of the reserve fund, be applied in manner directed by section 32 of the Act of 1875; and the interest on any mortgages granted or confirmed under this Act shall be paid in the manner and priority fifthly provided by the said section 32, and not otherwise.

Form and manner of service of notices, &c. by Corporation.

13. Any notice or any document being an order, summons, resolution, declaration, requisition, appointment, consent, demand, or other instrument to be made, given, delivered, or served under this or any other Act, or any byelaw, by the Corporation, or the mayor, town clerk, or other officer of the Corporation, may be either in print or in writing (including lithograph), or partly in print and partly in writing (including lithograph), and shall (subject to the provisions of any Act requiring such notice or document to be under the corporate seal) be sufficiently authenticated by a name purporting to be the name of the mayor or town clerk, or of the

treasurer or surveyor, or of any engineer or secretary or other proper officer or servant of the Corporation, or of any committee of the council, according to the subject of the particular notice or document, being affixed thereto in print, lithograph, writing, or by means of a stamp; and it shall be sufficient, in all cases where any such notice or document is required to be given to or served upon the owner or occupier of any property, to address such notice or document to such owner or occupier by his description as owner or occupier (as the case may be) of the premises (naming them) in respect of which the notice or document is given or served, without further name or description; and any such notice or document may be addressed to owners or occupiers of any number of adjoining or neighbouring houses or buildings collectively; and any such notice or document so addressed as last aforesaid may be served on more owners or occupiers than one (so that separate copies be served on the respective owners and occupiers of the several houses or buildings concerned); and any such notice or document may be served upon any owner, occupier, or other person in the manner prescribed for the service of notices by section 267 of the Public Health Act, 1875.

Evidence in legal proceedings.

14. Where, in any legal proceedings taken by or on behalf of the Corporation or the council, whether under any general or local Act of Parliament, and whether passed before or after the passing of this Act, it becomes necessary to prove the appointment or authority of any officer, servant, solicitor, or agent of the Corporation or 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 signature of the mayor or the town clerk, shall be primâ facie evidence of such appointment, authority, or resolution, and of the performance of all conditions precedent or necessary to the validity thereof, without further proof of the holding of any meeting or the production of any minute book or other record or document. The provisions contained in the last preceding section of this Act shall apply to any such certificate, so far as the same may be applicable thereto.

Byelaws for the protection of notices, &c.

15. The Corporation, from time to time, subject and according to the provisions of sections 182 to 186 (both inclusive) of the Public Health Act, 1875, may make byelaws for the protection of, and for preventing injury to, or the removal, defacement, or covering up of placards or notices issued, placed, or put up by or under the direction of the council, or of the mayor or the town clerk, under

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the provisions or for the purposes of any general or local Act of Parliament, including notices of the position of fire plugs.

Expenses of Act.

16. The costs, charges, and expenses of and preliminary and incidental to the preparing of, applying for, and obtaining this Act shall be paid by the Corporation out of the borough fund or rate, and ultimately out of money borrowed under this Act, or out of any funds in their hands applicable to the payment of the cost of maintenance of their waterworks undertaking.

The SCHEDULE.

Provisions of Act of 1875 applied to this Act.

Section twenty-four	-	Form of mortgage.
Section twenty-five	-	Coupons for interest mortgages.
Section twenty-six	-	Payments off of money borrowed by instalments or sinking fund.
Section twenty-eight	-	Power to re-borrow.
Section twenty-nine	-	Protection to lenders.
Section thirty	-	Power for trustees to invest in debenture stock.
Section thirty-two	-	So much only of this section as relates to the payment of the interest on money borrowed under that Act, and to providing the requisite instalments and sinking fund under that Act.
Section thirty-four	-	Annual return to Local Government Board with respect to sinking fund.
Section thirty-six	-	Power to create debenture stock.
Section thirty-seven	-	Provision for issue of debenture stock certificates transferable by delivery, with coupons payable to bearer.
Section thirty-nine	-	Receiver for debenture stockholders.
The fourth schedule	-	Form of mortgage.

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