CHAPTER lxiii.

An Act to authorise the Corporation of Bury to purchase land in connection with their waterworks undertaking and for other purposes. [3rd July 1894.]

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WHEREAS the borough of Bury in the county of Lancaster is a municipal and county borough under the government of the mayor aldermen and burgesses thereof (in this Act referred to as "the Corporation") and the Corporation acting by the council of the borough are the urban sanitary authority for the district of the borough:

And whereas it is expedient that the Corporation should be empowered to purchase compulsorily the land herein-after described in connection with their waterworks undertaking:

And whereas it is expedient that the time within which by section 26 of the Bury Waterworks Act 1889 the Corporation are required to afford a supply of water to the inhabitants of the district of Haslingden in the said county of Lancaster should be extended as by this Act provided:

And whereas it is expedient that further powers in relation to parks and recreation grounds and other matters should be conferred on the Corporation:

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

And whereas an estimate has been prepared by the Corporation showing that they may from time to time require to borrow moneys for gasworks purposes and such estimate amounts to the sum of fifty thousand pounds:

And whereas the several works included in such estimate are permanent works within the meaning of section 234 of the Public Health Act 1875 and it is expedient that the Corporation should be authorised to borrow money for those purposes:

And whereas an absolute majority of the whole number of the council at a meeting held on the ninth day of November one

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thousand eight hundred and ninety-three after ten clear days' notice by public advertisement of the meeting and of the purpose thereof in the "Bury Times" a local newspaper published and circulating in the borough such notice being in addition to the ordinary notices required for summoning that meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and rates leviable within the borough:

And whereas that resolution was published twice in the said newspaper 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 first day of February one thousand eight hundred and ninety-four being not less than fourteen days after the deposit of the Bill for this Act in Parliament:

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

And whereas plans and sections describing the lines and levels of the works authorised by this Act and a book of reference to those plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of lands required or which may be taken for the purposes or under the powers of this Act have been deposited with the clerk of the peace for the county of Lancaster and are in this Act respectively 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 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 for all purposes as the Bury Corporation Act 1894.

Lands Clauses Acts incorporated.

2. The Lands Clauses 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.

Interpretation of terms.

3. The several words and expressions to which by the Public Health Act or the Acts wholly or partially incorporated with this Act meanings are assigned shall in this Act have the same respective

meanings unless there is something in the subject or context repugnant to such construction:

And in this Act unless the context otherwise requires—

"The borough" means the borough of Bury;

"The council" means the council of the borough;

"The borough fund" and "the borough rate" mean the borough fund and borough rate of the borough:

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or in the Acts incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Execution of Act by Corporation.

4. This Act shall be carried into execution by the Corporation acting by the council.

Correction of errors omissions &c.

5. If any omission or mis-statement or erroneous description is found to have been made of any lands or of any owners lessees or occupiers of any lands shown or described or intended to be shown or described on the deposited plans or in the deposited book of reference the Corporation may apply to two justices for the correction thereof after giving ten days' notice to the owners lessees and occupiers of the lands affected by the proposed correction and if it appears to the justices that the omission mis-statement or erroneous description arose from mistake they shall certify the same accordingly stating the particulars of the omission mis-statement or erroneous description and such certificate shall be deposited with the clerk of the peace for the county where such lands are situate and shall be kept by him with the other documents to which it relates and subject and according to the same enactments and provisions as apply to those other documents and thereupon the deposited plans or book of reference (as the case requires) shall be deemed to be corrected according to the certificate and the Corporation may enter on take hold and use those lands accordingly.

Power to deviate.

6. In constructing the waterworks by this Act authorised and subject to the provisions of this Act the Corporation may deviate laterally from the lines thereof to any extent not exceeding the limits of lateral deviation shown on the deposited plans.

Restriction on taking houses of labouring class.

7. The Corporation shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or

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more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" means and includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Power to purchase additional lands by agreement.

8. The Corporation may from time to time for the purposes of their waterworks undertaking purchase by agreement any lands not exceeding ten acres in addition to the lands which they are authorised by this Act to take by compulsion Provided that the Corporation shall not create or continue or permit the creation or continuance of any nuisance on any lands purchased under the powers of this section and such lands shall not be used for any buildings except buildings required or used in connection with the water undertaking of the Corporation.

Power to grant easements &c.

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

Power to take lands for waterworks undertaking.

10. Subject to the provisions of this Act the Corporation may enter upon take use and appropriate for the purposes of their waterworks undertaking the land herein-after described and delineated on the deposited plans and described in the deposited book of reference (that is to say):—

A piece or strip of land belonging or reputed to belong to the Right Honourable the Earl of Abingdon situate in the township of Higher Booths in the parish of Whalley in the said county of Lancaster.

Period for compulsory purchase of lands.

11. The powers of the Corporation for the compulsory purchase of lands under this Act shall not be exercised after the expiration of two years from the passing of this Act.

Extending period for supplying water to the district of Haslingden.

12. The period limited by section 26 of the Bury Corporation Waterworks Act 1889 in which the Corporation are required to afford a sufficient supply of water to the inhabitants of the district of Haslingden in the said county of Lancaster is hereby extended for a period of two years from the passing of this Act.

Bands of music.

13. The Corporation may from time to time pay or contribute towards the payment of a band of music to perform in any public park or other place of public resort or recreation within the borough as the Corporation may prescribe and the Corporation may enclose an area within which such band shall play and make bye-laws for regulating the time and place for the playing of the band the payments to be made for admission within the said enclosure and for securing good and orderly conduct during the playing of the band Provided that the payments or contributions by the Corporation for or towards such band or bands shall be paid out of the Bury general rate and shall not in any one year exceed the sum of one hundred pounds.

Chairs and seats for public use.

14. The Corporation may from time to time place or authorise any person or persons to place seats or chairs in any park gardens pleasure ground recreation ground or other public place for the use of the public and may if they think fit charge or allow such person or persons to charge a reasonable sum for the use of chairs.

As to the inspection of gas fittings in new buildings.

15. Every person intending to lay down or fix any pipes or other fittings which are intended to be covered over for the distribution and supply of gas by the Corporation in any new house building or premises within the gas limits of the Corporation shall before such pipes or fittings are plastered or covered over give to the Corporation twenty-four hours' notice in writing specifying the situation of such house building or premises and any officer of the Corporation duly appointed for that purpose may before the expiration of such notice enter such house building or premises to inspect and test such pipes or fittings and may prohibit the use of any pipes or fittings which in the opinion of such officer will be likely to occasion danger or the escape of gas and until such pipes or fittings are altered to the reasonable satisfaction of such officer or if any person shall fail to give such notice as aforesaid or shall refuse such officer admittance into such house building or premises within the time and for the purposes aforesaid or shall prevent him from making such inspection the Corporation shall not be bound to furnish a supply of gas for such house building or premises.

Power of person aggrieved to appeal in certain cases.

16. Any person deeming himself aggrieved by any order judgment determination or requirement or the withholding of any consent or approval of or by the Corporation or of or by any officer

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of the Corporation may appeal to the justices of the borough of Bury sitting in petty sessions under and according to the provisions of the Summary Jurisdiction Acts and the said court may make such order in the matter as to the said court may appear just.

Power to borrow.

17. The Corporation may from time to time independently of any other borrowing power borrow at interest for gasworks purposes any sum or sums not exceeding in the whole fifty thousand pounds and for the purpose of securing the repayment of the moneys borrowed under this Act and interest the Corporation may mortgage or charge the Bury general rate and the revenue of their gas undertaking or either of those securities.

Provisions of Public Health Act as to mortgages to apply.

18. The ollowing sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (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.

Period for repayment of money borrowed.

19. The Corporation shall pay off all moneys borrowed by them under this Act for gasworks purposes within thirty years from the date or dates of the borrowing of the same.

Mode of repayment of moneys borrowed on mortgage.

20. All moneys borrowed by the Corporation on mortgage under this Act shall be paid off by equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund created invested and applied in manner provided by the Local Loans Act 1875 and section 15 of that Act shall apply accordingly Provided that any moneys for the time being standing to the credit of any sinking fund created in pursuance of this section may be invested upon any statutory security as defined by the Bury Improvement Act 1885 except the statutory securities of the Corporation.

Power to reborrow.

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

Protection of lender from inquiry.

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

Application of money borrowed.

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

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

24. The treasurer of the borough shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the treasurer shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and 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.

25. In the event of the Corporation borrowing on mortgage the whole or any part of the money authorised by this Act nothing in this Act relating to any such mortgage shall prejudicially affect any charge on the revenue and rates or the estates and property of the Corporation subsisting at the passing of this Act and every

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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 revenue rate and property subject to his charge as if this Act had not been passed and all such charges created before the passing of this Act shall during the subsistence thereof have priority over any mortgage or charge granted under this Act on the same revenue rate and property.

Costs of Act.

26. All the preliminary and other costs charges and expenses of and incident to the preparing for obtaining and passing this Act (including the costs incurred by the Corporation in complying with the provisions of the Act 35 and 36 Victoria chapter 91 with respect to the Bill for this Act) as taxed and ascertained by the taxing officer of the House of Lords or House of Commons shall at the option of the Corporation be paid by the Corporation out of the borough fund and borough rate or out of moneys borrowed on the security of the said fund and rate and the Corporation are hereby authorised to borrow such moneys as they may require for that purpose and to raise the same by the creation and issue of Bury Corporation stock or by mortgage of such fund or rate or either of them and to exercise the powers of this section at any time after the passing of this Act and all moneys borrowed under this section shall be repaid within five years from the time or respective times of borrowing the same.

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