CHAPTER clxxxii.

An Act to authorise the Corporation of Bury to make additional Waterworks and for other purposes. A.D. 1889.

[26th August 1889.]

WHEREAS the borough of Bury in the county of Lancaster is a municipal 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 the Corporation are the owners of the waterworks which supply the borough and other places with water:

And whereas it is expedient for the purpose of enabling the Corporation to supply water more effectually to the borough and to the other districts within their limits of supply that the Corporation should be authorised and empowered to make and construct the reservoir and works herein-after described:

And whereas by the Bury Improvement Act 1885 (herein-after called "the Act of 1885") the Corporation are by means of a sinking fund to pay off the moneys borrowed and to extinguish the annuities created for waterworks purposes under the Bury Improvement Act 1872 (herein-after called "the Act of 1872") within forty-three years from the passing of the Act of 1885:

And whereas it is expedient to repeal the provisions of the Act of 1885 with respect to the said waterworks sinking fund and to make other provisions with respect to such sinking fund:

And whereas plans of the works authorised by this Act and of the lands which the Corporation may acquire under this Act and sections of the said works and a book of reference to such plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the 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 which plans sections and book of reference are in this

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Act respectively referred to as the deposited plans sections and book of reference:

And whereas an estimate has been prepared by the Corporation for the purchase of lands for and for the execution of the works by this Act authorised and such estimate amounts to the sum of eighty-nine thousand eight hundred and forty-four pounds:

And whereas the works included in such estimate are permanent works within the meaning of section 234 of the Public Health Act 1875:

And whereas it is expedient that the Corporation should be authorised to raise moneys for the purposes herein-before mentioned in manner by this Act provided:

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

And whereas an absolute majority of the whole number of the council at a meeting held on the twenty-fifth day of October one thousand eight hundred and eighty-eight 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 seventh day of February one thousand eight hundred and eighty-nine 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:

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 Waterworks Act 1889.

Provisions of certain general Acts incorporated.

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 :—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 (in this Act called "the Lands Clauses Acts"):

The Waterworks Clauses Act 1847 (except the provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit):

The Waterworks Clauses Act 1863:

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof but such provisions shall apply only to the reservoir by this Act authorised.

Amendment of Waterworks Clauses Act 1847.

3. The Waterworks Clauses Act 1847 as incorporated in the Act of 1872 and in this Act shall be read and have effect as if the words "with the consent in writing of the owner or reputed owner "of any such house or of the agent of such owner" were omitted from section 44 thereof.

Interpretation of terms.

4. 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 Provided that in the Acts wholly or partially incorporated with this Act for the purposes of this Act :—

"The undertakers" or "the company" means the Corporation :

"The railway" means the reservoir by this Act authorised to be constructed :

"Centre of the railway" means with respect to the reservoir by this Act authorised to be constructed the boundary of such reservoir :

"The council" means the council of the borough :

"The town clerk" means the town clerk of the borough :

"The treasurer" means the treasurer of the borough :

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

"The Public Health Act" means the Public Health Act 1875 and any Act amending the same :

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or in

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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.

Act to be executed by Corporation.

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

Power to make waterworks.

6. Subject to the provisions of this Act the Corporation may make and maintain in the lines and situations 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):—

1. A reservoir ("Clough Bottom Reservoir") in the townships of Higher Booths and Cliviger and parish of Whalley to be situate on a stream known as the Whitewell Brook the embankment of which reservoir will be placed forty-six chains or thereabouts measured in a straight line in a north-easterly direction up the said stream from the centre of the bridge known as Springside Bridge across the said brook on the Burnley Road leading from Waterfoot to Burnley by way of a place called "Water" at which embankment the reservoir will commence and thence extend up such stream in a north-easterly direction for a distance of twenty-five chains or thereabouts measured in a straight line and there terminate:

2. A catchwater drain or conduit to be situate wholly in the said township of Higher Booths and parish of Whalley commencing in the intended reservoir fifty-two chains or thereabouts measured in a straight line in a north-easterly direction from the centre of the said bridge known as Springside Bridge and terminating in a stream one of the tributaries of the Whitewell Brook forty-five chains or thereabouts measured in a straight line in a north-westerly direction from the same point:

3. A diversion and alteration of the public road known as the Burnley Road leading from Waterfoot to Burnley by way of a place called "Water" to commence thirty-eight chains or thereabouts measured in a straight line in a north-easterly direction from the centre of the said bridge known as Springside Bridge and to terminate fifty-eight chains or thereabouts measured in a straight line in a north-easterly direction from the same point all which diversion and

alteration will be situate wholly in the said township of Higher Booths and parish of Whalley:

4. A diversion and alteration wholly in the said township of Higher Booths and parish of Whalley of the occupation road known as Windy Bank Lane to commence one chain or thereabouts measured in a straight line in a north-easterly direction from the north-east gable of the farmhouse at Windy Bank and to terminate six chains or thereabouts measured in a straight line in the same direction from the aforesaid gable of the farmhouse at Windy Bank:

5. An aqueduct tunnel conduit or line of pipes to commence in the township of Higher Booths in the parish of Whalley in the intended reservoir at a point forty-nine chains or thereabouts measured in a straight line in a north-easterly direction up the Whitewell Brook from the centre of the said bridge known as Springside Bridge and to terminate by a junction with an existing conduit or pipe of the Corporation in the Burnley Road at or near the Queen's Hotel Rawtenstall in the township of Lower Booths in the parish of Whalley:

Together with all necessary and proper cuts channels adits catchwaters aqueducts culverts tunnels drains sluices bywashes weirs gauges wells tanks filter beds embankments bridges roads approaches telegraphic and telephonic apparatus engines machinery appliances apparatus and conveniences connected with the said works or any of them or necessary for conducting inspecting maintaining repairing cleansing or managing the same Provided that such telegraphic and telephonic apparatus shall not be used in contravention of the exclusive privilege conferred upon Her Majesty's Postmaster General by the Telegraph Act 1869:

The works aforesaid will be made and situate within the several townships of Cliviger Higher Booths Lower Booths New Church Coupe Lench New Hall Hey and Hall Carr in the parishes of Whalley and Bury in the county of Lancaster.

Compensation for bursting of reservoir.

7. The Corporation shall and they are hereby required from time to time and at all times hereafter to pay and make good to the owners lessees and occupiers of all mills manufactories dwelling and other houses cottages and other buildings now erected or in course of erection over upon the banks of or near the said Whitewell Brook or which may hereafter be erected in proper and reasonable situations down to its junction with the River Irwell and of all lands adjoining or near to the said brook

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all loss costs charges sum and sums of money damages and expenses whatsoever and for all injury of what nature and kind soever which such owners lessees or occupiers may suffer incur pay expend or be put unto by reason or in consequence of the failure or giving way of the said reservoir embankments watercourses or other works of the Corporation Provided that this section shall not prejudice or impair the rights or remedies of the owners lessees and occupiers of property below the said junction by reason or in consequence of the matters aforesaid Provided that no obligation or liability shall attach to the Corporation in respect of an injury occasioned by an actus Dei and not arising from any default of the Corporation or any defect in the works.

Power to take lands and waters.

8. Subject to the provisions of this Act the Corporation 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 the purposes of this Act and may from time to time for the purpose of their waterworks collect impound take use get and appropriate all rivers springs streams and waters intercepted by any of those works and all springs streams and waters found in on or under any of those lands acquired by the Corporation and may stop up all such occupation roads and footways upon the same lands as are shown on the deposited plans as intended to be stopped up and may appropriate for the purposes of this Act the sites of the occupation roads and footways so stopped up.

Diversion of road.

9. Before the Corporation in any way interfere with the public road which they are by this Act authorised to divert they shall construct the proposed diversion of the said road with all necessary and proper side drains culverts retaining walls and fences thereto In constructing such road diversion the soil or material excavated therefrom shall be carted and conveyed away so as not to impede the traffic on the existing road The diverted public road when so constructed together with the drains culverts retaining walls and fences thereof shall be maintained in a good and efficient state of repair by and at the cost of the Corporation for one year from the completion thereof of which completion a certificate of two justices shall be conclusive evidence and which certificate two justices shall give on such completion being proved to their satisfaction.

Limits of lateral deviation.

10. In the construction of the works by this Act authorised the Corporation may deviate laterally from the lines of the respective works as shown on the deposited plans to the extent of the limits of lateral deviation marked in each case thereon Provided that the Corporation shall not in the exercise of the power of lateral deviation hereby given construct any embankment

or retaining wall of any reservoir of a greater height above the general surface of the ground than that shown on the deposited plans and three feet in addition.

Limits of vertical deviation.

11. In the construction of the works by this Act authorised the Corporation may deviate vertically from the levels shown on the deposited sections in the case of the reservoir to any extent not exceeding three feet upwards or ten feet downwards.

Period for compulsory purchase of lands.

12. The powers of the Corporation for the compulsory purchase of lands under this Act shall cease after the expiration of five years from the passing of this Act.

Time for completion of works.

13. If the works by this Act authorised are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof respectively or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as is then completed.

Power to take additional lands by agreement.

14. The Corporation may from time to time for the purposes of their water undertaking purchase by agreement any lands not exceeding twenty acres in addition to the lands which they are authorised by this Act to take by compulsion but the Corporation shall not create or permit the creation of any nuisance on any such lands and such lands shall not be used for any building except buildings required for or used in connexion with the water undertaking of the Corporation.

Power to take easements &c. by agreement.

15. 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 of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the Lands Clauses Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid.

Agreements with landowners as to drainage.

16. The Corporation if they think fit may enter into agreements with any owner lessee or occupier of any land within the drainage area of the water to be taken into the reservoir by this Act authorised who is authorised or empowered to make drains for the improvement of the same for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters flowing to upon or from such lands directly or derivatively into such reservoir in such

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manner and to such extent as such owner lessee or occupier and the Corporation may agree and the Corporation may apply to the purposes of this section any part of the moneys raised by them for waterworks purposes under the authority of this Act.

Preservation of water rights, &c. on sale.

17. The Corporation on selling any lands acquired for or in connexion with their 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 also 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.

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

18. The proceeds of the sale of any surplus lands of the Corporation under the powers of this Act shall be distinguished as capital in the accounts of the Corporation and shall be applied in discharge of any moneys borrowed for waterworks purposes by the Corporation and any moneys so discharged shall not be re-borrowed Provided that such proceeds when used to pay off borrowed moneys shall not be applicable to the payment of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

Restriction on taking houses of labouring class.

19. The Corporation shall not under the powers of this Act without the consent of the Local Government Board take ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purpose 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.

Existing waterworks of Corporation and works authorised by this Act to form one undertaking.

20. Subject to the provisions of this Act the waterworks by this Act authorised shall for all purposes whatsoever inclusive of rents rates and charges be deemed part of the waterworks undertaking of the Corporation.

Compensation for the supply of the brook called Whitewell Brook.

21. The Corporation shall cause to be discharged from and out of the reservoir and other works by this Act authorised to be made or from the feeders thereof to and into the course of a certain brook or stream called Whitewell Brook a quantity of water not being less than two cubic feet per second during twelve consecutive hours of every working day commencing at six o'clock in the morning of each such day Provided always that the beforementioned quantity of water shall be furnished in manner aforesaid before the Corporation shall be entitled to appropriate any of the waters which they are herein-before authorised to take for the purposes of this Act Provided further that the Corporation shall not use appropriate or diminish the existing supply of water to the mills and property situate on the Whitewell Brook until they commence to discharge the compensation water by this Act provided.

Water supplied after rate aforesaid to be taken as full compensation.

22. If the Corporation shall commence and continue to discharge from and out of their said reservoir and works the due quantity of water after the rate aforesaid the same shall be accepted and taken by the parties interested in the waters of the Whitewell Brook and of the River Irwell as full compensation in respect of quantity for the water intended to be diverted and appropriated for the purposes of this Act.

Gauge to be erected.

23. The Corporation shall erect and construct and for ever after maintain upon the said brook or stream a suitable measuring gauge (situate not more than one hundred and fifty yards below the foot of the embankment of the said Clough Bottom Reservoir) over or through which the said quantity of water shall flow or be discharged and the said guage shall be open to the inspection and examination of the owners and occupiers of the several present and future mills and works interested in the water so to flow or be discharged through or over the same Provided that if any difference shall arise between the Corporation and any of such owners and occupiers as to the suitability of such measuring gauge the same shall be referred to and determined once for all by an engineer to be appointed by the President of the Institution of Civil Engineers and the costs of any such reference shall be in the discretion of the engineer so appointed.

Penalty on failure to supply the stipulated quantity of water.

24. In case of any failure neglect or default by or in consequence of which the quantity of water required by this Act to flow or be discharged through or over the said gauge lastly herein-before mentioned as aforesaid shall not so flow or be discharged the Corporation shall for and during every day on which such

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failure neglect or default shall occur forfeit and pay by way of penalty to the owners or occupiers of each of the said several mills and works affected thereby who shall have actually received damage or incurred any loss by reason of such failure neglect or default as aforesaid and who may sue for and recover the same the sum of five pounds and in case of any wilful default in the discharge of the compensation water by this Act provided the Corporation in addition to any penalty they may incur therefor under the provisions of this section shall make compensation to the owners or occupiers for any loss damage or injury which they may suffer by reason of such wilful default.

As to prevention of waters of Whitewell Brook being fouled.

25. The Corporation in exercise of the powers of this Act shall take all reasonable and proper precautions to prevent the fouling of the waters of the Whitewell Brook and the tributaries thereof.

As to supply of water to Haslingden.

26. The Corporation shall within five years from the passing of this Act afford a sufficient supply of water to the inhabitants of the district of Haslingden entitled to demand the same by means of the works authorised by this Act or failing this by the means provided under section 36 sub-section (A) of the Act of 1885 Provided that if the Corporation fail to afford such supply within the said period they shall be liable to forfeit and pay to the local board of the district of Haslingden a fixed sum of forty pounds per week by way of liquidated damages for and in respect of the period in and during which such failure shall continue The local board may recover the amount of such damages together with the costs of the action in any court of competent jurisdiction.

For protection of the county council of the county palatine of Lancaster.

27. Nothing in this Act contained shall lessen or control any right power or authority now vested in the county council of the county palatine of Lancaster for altering or rebuilding any bridge or the lengths of roadway adjacent thereto repairable by the inhabitants of the said county or any hundred therein which may be crossed or affected by the works of the Corporation but all such rights powers and authorities shall remain in as full force as if this Act had not passed and the said county council shall not be liable to make any compensation whatever for any damage or injury to the Corporation by the altering or rebuilding of any such bridge and lengths of roadway adjacent thereto Provided that in altering or rebuilding such bridge or lengths of roadway adjacent thereto nothing shall be done to impede or interfere with the works of the Corporation for any greater length of time or in any other manner than shall be necessary for the execution of the work and before commencing such alteration or rebuilding ten days notice

thereof shall be given to the Corporation and the said county council shall afford to the Corporation all necessary and reasonable temporary facilities for enabling them to continue the supply of water during such alteration or rebuilding :

If any bridge repairable by the inhabitants of the said county or of any hundred therein upon or along which any pipes of the Corporation are laid be altered or rebuilt by the county council of the said county the said county council may require the Corporation to alter any such pipes in such manner as the circumstances of the case may reasonably require :

Provided that in case of any difference between the said county council and the Corporation as to such alteration the same shall be referred to an arbitrator to be agreed upon between the parties or failing agreement to be appointed by the Board of Trade on the application of either party and the costs of the arbitration shall be in the discretion of the arbitrator.

Repeal of part of section 130 and section 131 of Act of 1885.

28. From and after the passing of this Act so much of section 130 of the Act of 1885 as relates to the repayment of moneys borrowed for waterworks and section 131 of the same Act are hereby repealed.

Provision as to sinking fund.

29. The Corporation in order to repay loans borrowed by them for waterworks purposes under the Act of 1872 and to provide for the extinction of annuities created for waterworks purposes under the same Act shall out of the revenue arising from their water undertaking and so far as such revenue may be insufficient out of the Bury general rate annually pay into a sinking fund such equal sum or sums as (together with the sum or sums which is are or should at the commencement of this Act be standing to the credit of the sinking fund established under sections 130 and 131 of the Act of 1885 for waterworks purposes) will with accumulations at the rate of three pounds ten shillings per centum per annum in the way of compound interest be sufficient after payment of all expenses to repay and extinguish the moneys borrowed and annuities created for waterworks purposes as aforesaid within eighty years from the thirty-first day of March one thousand eight hundred and seventy-three.

Any sum or sums which is are or should be standing to the credit of the sinking fund established for waterworks purposes under sections 130 and 131 of the Act of 1885 shall forthwith after the passing of this Act be carried to the credit of the sinking fund to be established by the Corporation under this section.

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The Corporation may at any time apply the whole or part of such sinking fund in or towards the repayment of the moneys borrowed and annuities created for the repayment of which such sinking fund was set apart in such order and manner as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of the borrowed moneys and annuities to which such sinking fund is applicable are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum on which the annual payments to the sinking fund are based.

Power to borrow.

30. The Corporation may from time to time independently of any other borrowing power borrow at interest any sum or sums of money not exceeding in the whole the sum of one hundred and thirty thousand pounds for the general purposes of their waterworks undertaking and for those purposes may mortgage or charge the Bury general rate and the revenue of their water undertaking or either of those securities.

Mode of raising moneys.

31. The Corporation may raise all or any sums of money which they are authorised to borrow under this Act either by mortgage or by the creation and issue of adequate amounts of Corporation Stock authorised by the Act of 1885 and all such stock issued after the commencement of this Act under any of the powers aforesaid shall be declared by the resolution creating such stock to be redeemable.

Provisions of Public Health Act as to mortgages to apply.

32. The following 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.

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

As to moneys borrowed for the payment of the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing this Act within twenty years from the date of the borrowing of the same;

As to moneys borrowed for waterworks purposes within sixty years from the date or dates of the borrowing of the same respectively.

Mode of repayment of moneys borrowed on mortgage.

34. 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 Act of 1885 except that statutory security shall not include any security of the Corporation.

Power to re-borrow.

35. 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 they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the prescribed period 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 re-borrowing.

Protection of lender from inquiry

36. 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.

As to moneys raised by stock.

37. In the event of the Corporation raising any sum of money which they are authorised to borrow under this Act by the creation and issue of Bury Corporation Stock under the Act of 1885 the amount of the annual sums payable to the Corporation loans fund under the said Act towards the redemption of stock created and issued by the Corporation for the purposes of this Act shall be such as with accumulations will suffice to redeem at par such stock on the expiration of the prescribed periods from the date or dates of the borrowing of the same respectively.

The half-yearly annual or other sums payable to the Corporation loans fund under the Act of 1885 for payment of dividends on and for making a provision towards redemption of such stock shall be payable in the case of stock created under this Act for the purpose of executing the works authorised by this Act out of the revenue of the water undertaking of the Corporation or out of the Bury general rate.

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Application of money borrowed.

38. Money borrowed by the Corporation nnder this Act shall be applied only for the purposes of this Act to which capital is properly applicable.

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

39. The treasurer shall within twenty-one days after the expiration of each year during which any sum is required to be set aside 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 of Justice The provisions of this section shall mutatis mutandis apply to appropriations and annual repayments.

Saving for existing charges.

40. 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 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. A.D. 1889.

Costs of Act.

41. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for and obtaining this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the borough fund and borough rate or out of moneys borrowed under the provisions of this Act.

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