CHAPTER viii.

An Act for transferring to the Clay Cross Urban District Council the undertaking of the Clay Cross Waterworks Company and for empowering the Clay Cross Urban District Council to supply Water within their district and for other purposes. [6th June 1899.]

A.D. 1899.

WHEREAS the district of Clay Cross in the county of Derby is an urban district within the meaning of the Local Government Act 1894 and is under the control and management of the Clay Cross Urban District Council (in this Act called "the Council"):

And whereas by the Clay Cross Waterworks Act 1856 the Clay Cross Waterworks Company (in this Act called "the company") were incorporated for the purpose of supplying water within an area comprising the village and district parish of Clay Cross and the neighbourhood thereof (including the villages or places called Egstow Coney Green and Danesmoor) all within the parish of Clay Cross and all within the urban district of Clay Cross in the said county (in this Act called the district) and for making and maintaining waterworks and for other the purposes of that Act and were authorised to raise a share capital of six thousand pounds and to borrow one thousand pounds:

And whereas the company have raised the whole of their authorised capital by the issue of three thousand shares of two pounds each on each of which shares the full amount of two pounds has been paid up and the company have borrowed the sum of one thousand pounds:

And whereas the company have constructed waterworks and are supplying water within the said area:

And whereas it is expedient that the supply of water within the district should be in the hands and under the control of the Council and that the undertaking of the company should be transferred to and vested in the Council in manner provided

A.D. 1899.

by this Act and that the further powers contained in this Act should be conferred on the Council:

And whereas it is expedient that the Council be authorised to borrow money and to apply their funds for the purposes of this Act and that such other provisions be made with reference to the Council and the company as are in this Act contained:

And whereas the purposes of this Act 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 seventh day of December one thousand eight hundred and ninety-eight after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Derbyshire Courier a local newspaper circulated 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 general district fund or general district rate of the district:

And whereas such resolution was published twice in the said Derbyshire Courier 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-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 district by resolution in the manner provided in the Third Schedule to the Public Health Act 1875 have 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):—

Preliminary.

Short title.

1. This Act may be cited as the Clay Cross Water Act 1899.

Incorporation of Acts.

2. The following 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 and form part of this Act namely:—

The Lands Clauses Acts except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking;

The Waterworks Clauses Acts 1847 and 1863 except the provisions of the former of such Acts with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and except section 83 thereof and except the words in section 44 thereof "with the consent in writing of the owner or reputed owner "of any such house or of the agent of such owner" and so much of the said Act as authorises the Council to cut off or discontinue any supply of water for domestic purposes.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall 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 district" means the urban district of Clay Cross in the county of Derby;

"The Council" means the Urban District Council of the urban district of Clay Cross;

"The district fund" and "the general district rate" mean respectively the district fund and the general district rate of the district;

"The company" means the Clay Cross Waterworks Company;

"The Act of 1856" means the Clay Cross Waterworks Act 1856;

"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 (not being annuities) 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 other than securities of the Council and securities transferable by delivery;

"The undertaking of the company" includes the whole of the water undertaking of the company and all the company's other property and assets real and personal of every description (other than money securities for money and choses in action) and all the company's powers rights and

A.D. 1899.

privileges as the same respectively stand at the date of transfer ;

"The water undertaking" means the water undertaking of the Council under this Act including the undertaking of the company when acquired by the Council and new works and extensions;

"Water revenue" means and includes all moneys received by the Council for or in relation to the water undertaking other than borrowed moneys and other moneys which ought to be carried to the account of capital.

Limits of Act.

4. The limits of this Act for the supply of water shall be the district.

Execution of Act.

5. This Act shall be carried into execution by the Council.

Purchase of the Company's Undertaking.

Company to sell their undertaking to Council.

6. The company shall sell and the Council shall purchase the undertaking of the company for such consideration being a sum in gross and on such terms and conditions as may be agreed upon between the company and the Council or as failing such agreement shall be determined by arbitration in manner provided by the Lands Clauses Acts Provided that as part of the consideration there shall be included a sum not exceeding one hundred and five pounds in respect of the taxed costs and expenses of and incident to the winding up of the company which taxed costs and expenses shall be paid by the Council to the company.

Receipt for purchase money.

7. The receipt in writing of three directors of the company for any money paid to the company by the Council shall effectually discharge the Council from the sum which in such receipt shall be acknowledged to have been received and from being bound to see to the application thereof and from being answerable or accountable for the loss misapplication or non-application thereof Provided that if from any cause the Council are unable to obtain such receipt they may pay the money into the Bank of England in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Council by the cashier of the said bank for the money which shall have the same effect as the receipt of such three directors.

Transfer of undertaking.

8.—(1) On payment by the Council of the amount of purchase money to the company or on payment of such amount into the Bank of England under the provisions of this Act the undertaking of the company shall by virtue of this Act become and

shall thenceforth be transferred to and vested in the Council subject to the provisions of this Act and such transfer and vesting is in this Act referred to as "the transfer" Provided always and it is hereby expressly enacted that if the undertaking is not transferred to and vested in the Council before the expiration of two years after the passing of this Act this Act shall cease to have any operation.

(2) The production of a Queen's Printers' copy of this Act duly stamped together with a receipt for the purchase money purporting to be signed by three directors of the company or by the cashier of the Bank of England shall (unless it be proved that such purchase money has not been paid) be conclusive evidence in all courts and proceedings of the transfer to and vesting in the Council of the undertaking of the company.

Company to pay outgoings and be entitled to receipts till transfer.

9. The company shall up to the transfer bear and pay all outgoings and liabilities of every kind including their mortgage debt and the interest thereon and liabilities in respect of causes of action then existing and shall receive all water rents or rates and other debts due to them and shall be entitled to all receipts from the undertaking or such proportion thereof as shall have accrued due up to the transfer Provided that nothing in this Act shall entitle the company to retain for their own benefit so much of any water rents rates or charges or other payments paid or payable in advance as shall be attributable to any period after the transfer but such rents rates charges and other payments shall be apportioned and so much thereof as is attributable to any period after the transfer shall be paid over by the company to the Council.

Pending actions &c. against company.

10. If at the time of the transfer any action or other proceeding is pending or any cause of action or proceeding is existing by or against the company the same shall not abate or be discontinued or in anywise prejudicially affected by reason of the transfer or of anything in this Act but the same may be prosecuted continued and enforced by or against the Council as and when it might have been continued prosecuted and enforced if this Act had not been passed.

Contracts of company to be binding on Council.

11. Except as is by this Act otherwise provided all purchases sales conveyances deeds contracts bonds and agreements entered into or made and in force at the time of the transfer shall be as binding and of as full force and effect in every respect against or in favour of the Council and may be enforced as fully and effectually as if instead of the company the Council had been a party thereto Provided that as between the company and the

A.D. 1899.

Council the provisions of this and the last preceding section shall not extend or be construed to relieve the company from any payment or liability which under the section of this Act of which the marginal note is "Company to pay outgoings and be entitled to receipts till transfer" is to be made or discharged by the company.

Maintenance of undertaking by company till transfer.

12. Until the transfer the undertaking of the Company shall be maintained and carried on by the company as heretofore in the ordinary course of business but the company shall not without the previous consent of the Council under the hand of the clerk to the Council make or enter into any contract agreement or obligation except such as shall be in the ordinary course of the maintenance of the works and the proper conduct of the undertaking.

Application of purchase money.

13. The company shall hold the purchase money paid to them by the Council under this Act in trust to pay the debts liabilities and outgoings of the company and subject thereto to pay apply and distribute the same amongst the shareholders and stockholders in the company according to the amount of the maximum dividend payable to each shareholder or stockholder and for the purpose of such distribution the several persons whose names shall appear in the books of the company at the time of the transfer to be the proprietors of shares or stock therein shall unless the contrary be proved to the satisfaction of the directors of the company be considered to be shareholders or stockholders of the company and the receipt in writing of such persons or of their executors or administrators or of the committee or guardian of the estate of any of such persons who shall be an idiot lunatic or minor shall be an effectual discharge to the company and to the directors thereof for the money therein expressed to be received and shall exonerate them from any obligation affecting the share stock or interest in respect whereof that money is paid.

Payment into court by directors.

14. Where the directors of the company are for six months after the transfer unable after diligent inquiry to ascertain the person to whom any part of the purchase money of the undertaking or other assets of the company is payable or where any part thereof is payable to a person by or on behalf of whom an effectual receipt cannot be given or on account of any other reasonable cause such directors may pay the same into the High Court or if not exceeding five hundred pounds into the county court of Derbyshire holden at Chesterfield under any Act for the time being in force for the relief of trustees and every such payment into

court shall conclusively discharge the company and such directors from all further liability with respect to the money so paid. A.D. 1899.

Winding up and dissolution of company.

15. So soon as conveniently may be after the transfer the affairs of the company shall be wound up by the directors of the company and for that purpose the directors then in office and the survivors of them shall continue in office without re-election and may and shall exercise all powers necessary for the distribution of the purchase money and all other sums of money paid to the company by the Council and for winding up the affairs of the company and when and so soon as such moneys have been distributed and all debts and liabilities of the company have been paid and satisfied and the affairs have been wound up the company shall be by virtue of this Act dissolved.

If the number of directors of the company be reduced below three by the removal of a director by death resignation or otherwise before the completion of such winding up the continuing directors shall from time to time choose a shareholder or shareholders of the company to fill the vacancy so caused and act as a director for the purposes mentioned in this clause in place of the director so removed.

Books &c. to remain evidence.

16. All books and documents which if the transfer had not been made would have been evidence in respect of any matter for or against the company shall be admitted in evidence in respect of the same or the like matter for or against the Council.

Application of company's Act to Council.

17. As from the transfer all the powers rights privileges and authorities of the company under the Act of 1856 shall be by virtue of this Act transferred to and vested in the Council and the Act of 1856 shall save as varied by this Act be read and have effect as if the Council had been therein named instead of the company subject nevertheless and according to the following exceptions and provisions (namely) :—

(1) The provisions of the Companies Clauses Consolidation Act 1845 shall not apply to the Council :

(2) The provisions of the Lands Clauses Consolidation Act 1845 and the Waterworks Clauses Act 1847 shall not save as is provided by section two of this Act apply to the Council :

(3) The provisions of the Act of 1856 relating to the share capital and borrowing powers of the company and to the constitution meetings and directors of the company shall not apply to the Council :

(4) As from the transfer sections 27 and 28 of the Act of 1856 shall be repealed.

A.D. 1899.

Maintenance of waterworks.

18. The Council may maintain renew repair extend enlarge improve take up alter relay and sell the mains pipes and may renew repair extend enlarge and improve the reservoirs and other waterworks for the time being belonging to them by virtue of this Act or otherwise and may use and employ the same for the purpose of taking intercepting and impounding any water that can be thereby taken intercepted or impounded and may take any water which might have been taken intercepted or impounded by the company if this Act had not been passed and may sell and supply water in accordance with the provisions of this Act.

Rate payable by owners for small houses.

19. Where the rateable value of a house supplied with water does not exceed ten pounds or the house 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 pay the rate for the supply but the rate may be recovered in the first instance from the tenant or 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 tenant or occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to a notice to pay the rate being given to him or left at his dwelling-house.

Supply to houses partly used for trade &c.

20. 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.

Council not bound to supply several houses by one pipe.

21. The Council shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main into each house supplied by them with water.

Notice of discontinuance.

22. A notice to the Council from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing and be sent by post to or left at the office of the Council.

Price for supply by measure.

23. The price to be charged by the Council for a supply of water by measure shall not in any case exceed the sum of ninepence per thousand gallons.

What shall not be deemed domestic purposes.

24. A supply of water for domestic purposes shall not include a supply for cattle or for horses or washing carriages where such horses or carriages are kept for hire or by common carriers or for any trade manufacture or business whatsoever or for watering gardens or for fountains or for any ornamental purpose.

Rates for waterclosets and baths.

25. In addition to the rates for the supply for domestic purposes the Council may charge in respect of every watercloset beyond the first (for which no additional charge shall be made) on any premises within the district a sum not exceeding five shillings per annum and for every fixed bath capable of containing not more than fifty gallons a sum not exceeding ten shillings per annum and for every fixed bath capable of containing more than fifty gallons such sum as the Council may think fit such additional sum to be paid quarterly in advance and to be recoverable in all respects with and as the water rate. Provided that the Council shall not be compelled to supply water for any bath containing more than fifty gallons.

Financial.

Power to borrow.

26. The Council may from time to time independently of and so as not to affect any other their borrowing power borrow at interest any sum or sums of money for the purposes herein-after mentioned not exceeding the respective amounts following (that is to say) :—

(1) For the purchase of the undertaking of the company and defraying the costs and expenses of and incident to such purchase and to the transfer of such undertaking to the Council and to the winding up of the company the sum requisite for those purposes ;

(2) For paying the costs and expenses of this Act as herein-after provided the sum requisite for that purpose :

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

In order to secure the repayment of the moneys borrowed under this section and the payment of the interest thereon the Council may mortgage or charge the revenue of their water undertaking and if they think fit as a collateral security the district fund and the general district rate.

Borrowing powers for current expenses.

27. In order to raise such money as may be necessary to defray the current annual expenditure of the Council in respect of the water undertaking until their revenues shall be collected the Council may borrow during the currency of any financial year in addition to the other sums authorised to be borrowed upon the security mentioned in the last preceding section of this Act any sum or sums not exceeding in the whole one half of the approximate amount of their water revenue for the year then current from any bank or banking company or

A.D. 1899.

other company or person on such terms and conditions and in such form as may be agreed on between the parties Provided always that such sums so borrowed shall be paid off and extinguished at or before the end of the then current year And such sums when borrowed shall be deemed to be money received by the Council in respect of water revenue.

Mode of raising money.

28. 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 debenture stock 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 in respect of moneys raised under the Local Loans Act 1875 and repayable by sinking funds the provisions of the section of this Act the marginal note whereof is "Sinking fund" shall apply in lieu of those of section fifteen of the Local Loans Act 1875.

Certain regulations of Public Health Act as to borrowing not to apply.

29. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section two hundred and thirty-four 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.

Provisions of Public Health Act as to mortgages to apply.

30. The following sections of the Public Health Act 1875 shall extend and apply to mortgages under this Act (that is to say) :—

Section two hundred and thirty-six Form of mortgage;
Section two hundred and thirty-seven Register of mortgages;
Section two hundred and thirty-eight Transfer of mortgages.

Periods for discharge of loans.

31. 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) :—

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

As to money borrowed for the purpose (2) in the said section mentioned within ten years from the date or dates of the borrowing of the same;

As to moneys borrowed with the approval of the Local Government Board within such period as the Board may think fit to sanction.

A.D. 1899.

Mode of repayment of money borrowed.

32. The Council shall pay off all moneys borrowed by them under the powers of this Act either 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 such instalments and partly by a sinking fund and the payment of the first instalment or the first payment to the sinking fund shall be made not later than one year from the date of borrowing.

Sinking fund.

33.—(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 and maintained either—

(*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 herein-after 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 of interest 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 herein-after called an accumulating sinking fund.

(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 statutory securities 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 investments of the fund may be applied by the Council towards the equal annual payments to the fund and the excess if any of such interest over such annual payments may be carried to the district 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

A.D. 1899.

from the amount invested if the same were invested at the rate per centum per annum on which the equal 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 equal annual payments to the fund are based any such excess may be applied towards such equal 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 and shall be considered as part of the cost of maintenance of the undertaking.

(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 always 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.

(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 an extent as the Local Government Board shall approve.

(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 equal 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.

Protection of lender from inquiry.

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

Council not to regard trusts.

35. The Council shall not be bound to see to the execution of any trust whether expressed implied or constructive to which any loan or security for loan given 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 mortgages or charges of the Council shall be 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 in their register.

Appointment of receiver.

36. The mortgagees of the Council by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest 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 than one thousand pounds in the whole.

Power to re-borrow.

37. If the Council 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 out of other moneys received on capital account not being borrowed moneys they may 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 Council 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.

Annual return to Local Government Board.

38.—(1) The clerk of the Council shall within twenty-one days after the thirty first day of March in each year during which any sum is required to be paid as an instalment or annual payment

A.D. 1899.

or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act 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 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 any interest thereof or investment of the sum 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 any wilful default in making such return such clerk shall be liable to a penalty 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.

(2) If it appear 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 by this Act for any sinking fund or have applied any portion of any sinking fund to any purposes other than those by this Act 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 shall have 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.

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

39. The proceeds of the sale and all moneys received by the Council by way of fine or premium on any lease of any lands of the Council under the powers of this Act shall be distinguished as capital in the accounts of the Council and shall be applied in discharge of any moneys borrowed by the Council under this Act but shall not be applied to the payments 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 Provided that borrowed money discharged by the application of such moneys shall not be re-borrowed.

A.D. 1899.

Application of money borrowed.

40. All moneys borrowed by the Council under the powers of this Act shall be applied only to the purposes for which they are authorised to be borrowed and to which capital is properly applicable.

Application of water revenue.

41. The Council shall apply all money received by them in respect of water revenue as follows (that is to say) :—

First In payment of the working and establishment expenses and cost of maintenance of their water undertaking and of collecting or recovering their water revenue ;

Secondly In payment of the interest on moneys borrowed by the Council under this Act ;

Thirdly In providing the moneys required for instalments appropriations or sinking funds under this Act in respect of moneys borrowed and for repayment of moneys borrowed under and by virtue of the section of this Act whereof the marginal note is "Borrowing powers for current expenses" ;

Fourthly In improving or extending the undertaking ;

Fifthly. In providing a reserve fund if they think fit by setting aside such money as they think reasonable and investing the same and the resulting income thereof in statutory securities and accumulating the same at compound interest until the fund so formed amounts to one thousand pounds which fund shall be applicable to answer any deficiency at any time happening in the income of the Council from their water undertaking or to meet any extraordinary claim or demand at any time arising against the Council in respect of that undertaking and so that if that fund is at any time reduced it may thereafter be again restored to the sum of one thousand pounds and so as often as such reduction happens :

And the Council shall carry to the district fund so much of any balance (including the interest on the reserve fund when such fund amounts to one thousand pounds) remaining in any year as may in the opinion of the Council not be required for carrying on their water undertaking and paying the current expenses connected therewith.

As to deficiency in receipts.

42. Any amount in respect of which the water revenue shall at any time be insufficient to meet the payments and provisions to be made thereout under the provisions of this Act other than the provision of a reserve fund shall be made good out of the general district rate made next after the deficit is ascertained.

A.D. 1899.

Separate accounts of water undertaking to be kept.

43. The Council shall keep a separate account of their receipts and expenditure in respect of their water undertaking for waterworks purposes on capital and revenue account and the provisions of section fifty-eight of the Local Government Act 1894 shall apply to the accounts of the Council and the accounts of their committees officers and servants under this Act.

Miscellaneous.

Power to take additional land by agreement.

44. The Council may for any of the purposes of their water undertaking purchase by agreement any lands not exceeding ten acres but the Council shall not create or permit the creation or continuance of any nuisance on any such lands or use such lands for any building except 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 take easements &c. by agreement.

45. 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 Council any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges as 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 respectively.

Reservation of water rights &c. on sale.

46. The Council on selling any lands acquired by them 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 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.

Power to hold lands for protection of works.

47. The Council may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of preventing the fouling of any water which they are authorised to take or for the protection of their waterworks against nuisances encroachment or injury and so long as such lands shall be so held they shall not be deemed

to be superfluous lands within the meaning of the Lands Clauses Acts but the Council shall not create or permit a nuisance or erect any buildings upon the lands while so held by them except offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their water undertaking.

Restriction on taking houses of labouring class.

48.—(1) The Council 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 more houses which were not so occupied on the said fifteenth day of December but which have been or shall be subsequently so occupied.

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

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

Byelaws for preventing waste &c. of water.

49. For preventing waste misuse undue consumption or contamination of the water of the Council the following provisions shall have effect (that is to say) :—

(1) The Council may make byelaws for the purpose of preventing the waste undue consumption or misuse or contamination of water and may by such byelaws prescribe the size nature materials workmanship and strength and the mode of arrangement connexion disconnexion alteration and repair of the pipes meters cocks ferrules valves soil-pans waterclosets baths tanks cisterns and other apparatus fittings means contrivances receptacles or appliances whatsoever to be used and forbid any arrangements and the use of the several things before mentioned or any of them which may

A.D. 1899.

allow or tend to waste or undue consumption misuse erroneous measurement or contamination :

(2) Such byelaws shall apply only in the case of premises to which the Council are bound to afford and do in fact afford or are prepared on demand to afford a constant supply of water and all byelaws made under this section shall be made under and according to the provisions contained in sections one hundred and eighty-two to one hundred and eighty-six both inclusive (except as much thereof as relates to byelaws made by a rural sanitary authority) of the Public Health Act 1875 and all penalties imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of penalties :

(3) In case of failure of any person to observe such byelaws as are for the time being in force the Council may if they think fit after twenty-four hours notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any pipe meter valve cock ferrule tank cistern bath soil-pan watercloset or other apparatus means contrivance or receptacle fittings or appliances belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be paid to the Council by the person on whose credit the water is supplied and may be recovered by them as water rates are recoverable.

Agreements with Chesterfield Rural District Council for supply of water.

50. It shall be lawful for the Council and they are hereby empowered to enter into and carry into effect contracts and agreements for the supply of water in bulk or otherwise to the Council by the rural district council of Chesterfield or any other urban or rural district council county council corporation or any company authorised to supply water The rural district council of Chesterfield are hereby authorised and empowered to enter into and carry into effect contracts and agreements with the Council for the purposes in this section mentioned.

Power to sell or let meters.

51. The Council may sell and dispose of meters and any water fittings upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit and may let for hire any meters for ascertaining the quantity of water consumed or supplied and any water fittings for such remuneration in money and on such terms and conditions with respect to the repair maintaining and protection of such meters and fittings and for securing safe access to and the safety and return to the

Council of such meters and fittings as may from time to time be agreed upon between the hirer and the Council and the rent of meters let for hire shall be recoverable in the same manner as rates due to the Council for water. A.D. 1899.

Register of meters to be evidence.

52. Where water is supplied by measure the register of the meter 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.

Notice to Council of connecting or disconnecting meters.

53. 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.

Injuring meters &c.

54. 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 connected therewith 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 for every such offence be liable to a penalty 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

A.D. 1899.

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 insuring 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 rent is 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.

Where several houses supplied by one pipe each to pay.

55. Where several houses or parts of houses in the occupation of several persons are supplied by one common pipe the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been separately supplied with water from the works of the Council by a distinct pipe Provided that the Council shall not be compelled to supply water to the occupier of any part of a dwelling-house unless the water rate is paid for the whole of such dwelling-house.

Misuser where supply to several houses is by a pipe common to all.

56. Any tenant or occupier of one or part of one of several houses or tenements supplied by a common pipe who takes or uses the water laid on by the Council to any other of such houses or tenements or allows the same to be taken or used contrary to the provisions of this Act shall for every such offence be liable to a penalty not exceeding five pounds.

Power to Council to supply materials.

57. 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 any such pipes valves cocks cisterns baths meters soil-pans waterclosets apparatus and receptacles as are required or permitted by their regulations and may provide all materials and do all 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 lay pipes in streets not dedicated to public use.

58. The Council may on the application of the owner or occupier of any premises within the district abutting on or being erected in any street laid out but not dedicated to public use supply such premises with water and may lay down take up alter relay or renew in or across or along such street such pipes and apparatus as may be requisite or proper for the furnishing of such supply.

Inquiries by Local Government Board.

59.—(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.

(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.

Expenses of execution of Act.

60. Any expenses of the execution by the Council of this Act with respect to which no other provision is made may be defrayed by the Council out of the district fund and general district rate.

Judges not disqualified.

61. 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 or any water rate rent or charge payable to the Council.

Recovery of demands under fifty pounds.

62. Proceedings for the recovery of any demand not exceeding fifty pounds made under the authority of this Act 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.

As to penalties.

63. Penalties recovered by the Council under this Act shall belong to the Council and shall be applied in the manner hereinbefore provided with respect to moneys from time to time received by them in respect of the water revenue Penalties imposed for one and the same offence by several Acts of Parliament shall not be cumulative and for that purpose this Act and all Acts incorporated with the said Acts respectively shall be deemed several Acts.

A.D. 1899.

Costs of Act.

64. All the costs charges and expenses of the Council 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 obtaining of the resolution of owners and ratepayers aforesaid as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council and may be paid in the first instance out of any moneys in their hands but shall be charged to and recouped by the moneys which the Council are authorised to borrow under the powers of this Act.

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