CHAPTER cxc.

An Act for empowering the Mayor, Aldermen, and Citizens of the city and county of the city of Exeter to acquire the undertakings of the Exeter Water Company and of the Dartmoor and Exeter Water Supply Company, Limited, and to make better provision for the supply of Water to the city and neighbouring parishes; and for other purposes. A.D. 1878.

[22d July 1878.]

WHEREAS the city and county of the city of Exeter (in this Act called the city) is, under the Municipal Corporations Acts, a city under the government of the mayor, aldermen, and citizens thereof (in this Act called the Corporation):

And whereas the Corporation acting by the council are the sanitary authority for the urban sanitary district of the city, having all the powers, authorities, and obligations of an urban sanitary authority accordingly:

And whereas the Exeter Water Company (in this Act referred to as the company) under the powers of various Acts are supplying with water the city and some parishes and places or parts of parishes and places in the county of Devon:

And whereas for the purpose of affording a continuous supply of pure water for domestic and other purposes to the city, and to certain parishes and places in the neighbourhood thereof, a limited company, called the Dartmoor and Exeter Water Supply Company, Limited (in this Act referred to as the limited company), has recently been formed under the Companies Act, 1862, and that company promoted a Bill in the present session of Parliament for incorporating the said company and for conferring powers on them with reference to the construction of works, the supply of water, and for other purposes: 25 & 26 Vict. c. 89.

And whereas it is expedient that the Corporation be invested with powers for supplying water and with the control of water supply within the city and the parishes and places or parts of parishes and places in that behalf in this Act mentioned, and that

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they be authorised to acquire the undertakings of the company and of the limited company respectively, and to exercise all powers and authorities which are or might be exercised by either of those companies:

And whereas since the Bill for this Act was deposited in Parliament the company have agreed with the Corporation for the sale and transfer of their undertaking, for the consideration and in manner and upon the terms in this Act expressed and provided:

And whereas the limited company have agreed with the Corporation to withdraw their said Bill, and to sell and transfer to the Corporation their undertaking upon payment by the Corporation of such a sum not exceeding two thousand pounds as the said limited company and the Corporation shall agree:

And whereas it is expedient to give effect to the said agreements in manner provided by this Act:

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

And whereas estimates have been prepared by the Corporation showing that they may from time to time require to borrow for the purpose of acquiring the undertakings of the Company and of the limited company respectively, and for the other purposes of this Act, being permanent works within the meaning of section 234 of the Public Health Act, 1875, sums of money not exceeding in the aggregate one hundred and twenty thousand pounds:

38 & 39 Vict. c. 55.

And whereas an absolute majority of the whole number of the council of the city, at a meeting held on the twenty-seventh day of December one thousand eight hundred and seventy-seven, after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Devon Evening Express, a local newspaper published or circulating in the city (such notice being in addition to the ordinary notices required for summoning such meeting), resolved that the expense in relation to promoting the Bill for this Act should be charged on the district fund and general district rates:

And whereas such resolution was published twice in the Exeter and Plymouth Gazette Daily Telegram, 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 thirteenth day of February one thousand eight hundred and seventy-eight, 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 city, by resolution

in accordance with the rules contained in Schedule III. to the Public Health Act, 1875, as to the passing of resolutions of owners and ratepayers, consented to the promotion of the Bill for this Act: 38 & 39 Vict. c. 55.

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Exeter Corporation Water Act, 1878.

Provisions of general Acts incorporated.

2. The following enactments (so far as they are not varied by or inconsistent with this Act) are hereby incorporated with and shall form part of this Act; (namely,)

The Waterworks Clauses Acts, 1847 and 1863, except the provisions of the former of those two Acts with respect to the amount of profit to be received by the undertakers where the works are carried on for their benefit: Provided that section 44 of the Waterworks Clauses Act, 1847, shall for the purposes of this Act 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 therefrom, and any rent for pipes and works paid by an occupier under that section may be deducted by him from any rent from time to time due from him to such owner. 10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93. 10 & 11 Vict. c. 17.

Interpretation of terms.

3. In this Act, unless the context otherwise requires,—

The term "undertaking" includes the company's works, mains, pipes, plant, fixed or moveable machinery, apparatus, implements, conveniences, buildings, lands, estates, property, easements, rights, interests, books, writings, chattels, effects, securities, moneys, debts, profits, choses in action, claims, demands, authorities, powers, rights, and privileges, and all other the estate, real and personal, of or belonging to the company; and the term "water undertaking" in relation to the Corporation includes the undertaking or undertakings acquired by them under this Act, and any other property, rights, or privileges at any time held or enjoyed by them under and for the purposes of this Act:

"The council" means the council of the city:

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

"The Municipal Corporations Acts" means the Act of the session of the fifth and sixth years of King William the Fourth, chapter seventy-six, intituled "An Act to provide for

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"the regulation of Municipal Corporations in England and "Wales," and all Acts for the time being in force amending the same, or otherwise relating to municipal corporations in England:

"Person" includes a corporation:

"Mortgage debt" of the company includes bonds.

Terms to which meanings are assigned in enactments wholly or partially incorporated with this Act, or which have therein special meanings, have in this Act the same respective meanings, unless there be something in the subject or context repugnant to such construction, provided that the expression "the undertakers" shall mean the Corporation, and provided also that the expression "superior court" or "court of competent jurisdiction" in any Act so incorporated and in this Act shall be read and have effect as if the debt or demand in respect of which the expression is used were an ordinary simple contract debt, and not a debt or demand created by statute.

Sale and transfer of company's undertaking to Corporation.

4. From and after the passing of this Act the undertaking of the company shall be by virtue of this Act transferred to and vested in the Corporation, subject to all debts and liabilities of the company then affecting the same (which transfer and vesting is in this Act referred to as the transfer), for such consideration by way of annuities and other payment, and generally on such terms and conditions as are in this Act mentioned and contained.

Company to pay debts incurred prior to 25th March 1878.

5. Notwithstanding anything in this Act contained, the company shall bear, pay, and discharge all debts other than mortgage debts incurred by them and accrued due prior to the 25th day of March 1878.

Retrospective operation of Act as regards transfer.

6. Such transfer shall for all purposes of and incidental to the collection and recovery of money in respect of the current half year's water rates or rents of fittings or otherwise be deemed to have taken effect as from the twenty-fifth day of March 1878, and such current half year's water rates or rents, as well before as after the passing of this Act, shall be liable to the discharge thereout of the current half year's expenses of and attendant upon the undertaking of the company.

Corporation to take over plant, &c. of company.

7. The stock in hand and moveable plant of the company as they exist on the day of the transfer shall be taken over by the Corporation at the price of nine hundred and ninety-seven pounds eighteen shillings and sixpence, being the sum at which the stock in hand and moveable plant of the company were valued on the twenty-fifth day of March 1878.

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Receipt for and application of purchase money.

8. The receipt in writing of three of the committee of management of the company for the said sum of nine hundred and ninety-seven pounds eighteen shillings and sixpence shall effectually discharge the Corporation from the same and from being concerned to see to the application thereof, and from being answerable or accountable for the loss, misapplication, or non-application thereof, and such sum shall be applied by the Company in manner following:

First, in paying and discharging all debts of the company, and all payments, costs, charges, and expenses ordered by the company, or caused by or otherwise incident to the winding up the affairs of the company:

Secondly, in making a fair rateable division of the residue thereof amongst the holders of the shares of the Company at the time of transfer, in accordance with their priorities and in proportion to their respective shares and interests in the undertaking of the company.

Compensation to officers of company.

9. Any officer of the company who is not continued in his office or employment by the Corporation upon the terms and conditions on which he held such office or employment at the passing of this Act shall receive such compensation (to be payable out of the revenue of the water undertaking of the Corporation and the district fund and general district rate) as may be determined by agreement between such officer and the Corporation, or as, in default of agreement, may be determined by the Local Government Board.

Application of the company's Acts to Corporation.

10. From and after the transfer all the powers and authorities of the company under the special Acts relating to the company shall be by virtue of this Act transferred to and vested in the Corporation, and those Acts (save so far as they are varied by or are inconsistent with this Act) shall be read and have effect as if the Corporation had been therein named instead of the company, subject as aforesaid, and to the proviso that none of the provisions of those special Acts in any manner relating to the share or loan capital of the company, or to any limitation of the amount of profit to be received by the company, or to the constitution, meetings, or directors of the company, shall apply to the Corporation. Where any offence is punishable both under the special Acts aforesaid and under this Act, proceedings may be taken, at the discretion of the Corporation, either under the special Acts or this Act, or under both, provided that no person shall be punished for the same offence both under the special Acts and this Act.

Mortgage debt to continue first

11. The mortgage debt of the Company at the time of the transfer, and the interest thereon, shall after the transfer continue to be a

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charge on undertaking.

first charge on the revenue of the water undertaking of the Corporation, and shall further be a charge on the district fund and general district rate of the Corporation in priority to all charges made thereon subsequent to the passing of this Act.

Actions, &c. not to abate.

12. If at the time of the transfer any action, suit, or proceeding, or any cause of action, suit, or proceeding, is pending or existing 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 continued, prosecuted, and enforced against the Corporation as and when it might have been continued, prosecuted, and enforced against the Company if this Act had not been passed, but not further or otherwise.

Contracts of company to be binding on Corporation.

13. Subject to the provisions of this Act, all purchases, sales, conveyances, grants, assurances, deeds, contracts, bonds, and agreements entered into or made by the company, and subsisting at the time of the transfer and then in force, shall be as binding and of as full force and effect in every respect against or in favour of the Corporation, and may be enforced as fully and effectually, as if instead of the company the Corporation had been a party thereto.

Grant of annuities to shareholders.

14. As soon as conveniently may be after the passing of this Act, the Corporation shall issue to the holders of all shares in the capital of the company perpetual annuities of the amount of two pounds in respect of each share in the capital of the company. Such annuities shall be charged on and issue out of the revenue of the water undertaking of the Corporation, and on and out of the district fund and general district rate, and shall be called "Exeter Corporation Water Annuities," and shall rank in priority next after the mortgage debt of the company.

Company's books evidence as to shareholders.

15. The several persons who at the time of the transfer appear in the books of the company to be proprietors of shares in the capital of the company, or their respective executors, administrators, or assigns, shall be considered to be shareholders thereof and entitled to annuities.

Vesting annuities in shareholders.

16. The annuities shall be computed from the twenty-fifth day of March 1878, and shall vest in and belong to the several persons who then are shareholders in the Company in proportion to the number of their shares.

Annuities to be paid half-yearly.

17. The annuities shall become due and payable half-yearly on the twenty-ninth day of September and the twenty-fifth day of March in every year, the first of such payments to become due and payable on the twenty-ninth day of September one thousand eight hundred and seventy-eight, and the warrants for such annuities

shall within fourteen days after the same shall have so become payable be transmitted by post to the registered address of each annuitant, unless the warrant shall have previously been applied for and delivered at the office of the treasurer of the Corporation. A.D. 1878.

18. The annuities and other consideration money shall in all respects be substituted for and represent the shares in the capital of the company for which the same were respectively granted and paid, and the several parties in whom the annuities and other consideration money vest shall hold the same on and subject to the same trusts, powers, and liabilities as those on and to which their shares in the capital of the company were held, and so as to give effect to and not to defeat any testamentary or other disposition. Annuities to represent shares in company.

19. The Corporation shall issue to every person in whom an annuity vests or to his representatives, on demand, and on delivery of his or their share certificate or proof of its loss or destruction, or on other satisfactory evidence of title to the share or shares in respect of which the annuity or annuities is or are claimed, a certificate of the annuity free of expense to the annuitant, and the certificate may be in the form in the schedule to this Act annexed or to the like effect, and any number of annuities to which an annuitant is entitled may with the consent of the annuitant be included in one certificate. Corporation to issue certificates for annuities.

20. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the distribution of the capital of the Company into shares, and with respect to the transfer or transmission of shares, are hereby incorporated with this Act, and shall (except so far as they are varied by or inconsistent with this Act) apply to the Corporation and the annuities and annuitants, as if the Corporation were the company and the annuities were shares in the company's undertaking and the annuitants were shareholders, but the form of transfer of an annuity may be according to the form given in the schedule to this Act or to the like effect. Transfer, &c. of annuities. 8 & 9 Vict. c. 16.

21. An annuity may, with the consent of the Corporation, be divided, at the option of the annuitant, into two or more annuities of any amount not being less than ten shillings, and all annuities, whether the same have been subdivided or not, may, with the like consent, be consolidated with other annuities as the annuitant may direct. Annuities may be divided.

22. If within twenty-one days after an instalment of an annuity becomes payable it is not paid, the annuitant may recover it against the Corporation, with costs of suit, in any court of competent jurisdiction. Recovery of arrears of annuities.

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As to appointment of a receiver.

23. The annuitants, without prejudice to their other remedies, may enforce payment of arrears of their annuities by the appointment of a receiver, as if they were mortgagees of the Corporation, and each annuity was interest on a mortgage of the Corporation, and for that purpose the provisions in that behalf applicable of the Companies Clauses Consolidation Act, 1845, shall apply, mutatis mutandis, to the Corporation and the annuitants, and to the receiver.

8 & 9 Vict. c. 16.

Power to redeem annuities.

24. The Corporation may at any time within ten years from the passing of this Act, on giving three months previous notice in writing to the annuitant, redeem any annuity at the rate or price of forty-seven pounds for every annuity of two pounds, and from and after that period at such price, not exceeding twenty-five years purchase of such annuity, as may be agreed upon between the annuitant and the Corporation, and on any annuity being redeemed the same shall be extinguished: Provided that upon receipt of any such notice as aforesaid after the expiration of the said period of ten years, the annuitant to whom the same is addressed shall be bound to accept the price of twenty-five years purchase when tendered by the Corporation.

Receipt in case of persons not sui juris.

25. If any money shall be payable under this Act to or for the benefit of a person being an infant or person of unsound mind, so found by inquisition, the receipt of the guardian or committee of his estate shall be a discharge to the Corporation for the same.

Sinking fund for annuities and debt of water company.

26. The Corporation shall at the expiration of one year from the transfer, out of the revenue of the water undertaking or out of the district fund and general district rate, make provision for the extinction of the annuities and of the bond and mortgage debt of the company, either by instalments or by means of a sinking fund appropriated and invested and with the accumulations thereof (if any) from time to time applied for that purpose, so as in either case to extinguish or be in a position to extinguish the said annuities and debt within sixty-five years from the passing of this Act; and if at the end of that time the said annuities or any of them, or the said debt, are or is not wholly extinguished, then the Corporation shall, so long as they are liable to pay the same, apply in or towards that payment the annual income arising from the sinking fund provided under this section, and the amounts of the instalments and the amounts to be from time to time appropriated for such sinking fund shall be such as the Local Government Board shall, having regard to the provisions of this section, approve. Any sums paid into any sinking fund under this section shall, as soon as may be, be invested in any securities in which trustees are by

law for the time being authorised to invest trust moneys. Whenever any annuities or mortgage debt have been extinguished by means of a sinking fund under this section, the Corporation shall thenceforward, until all such annuities or debt are extinguished, pay into such sinking fund every year, in addition to the amounts hereinbefore required to be appropriated, a sum equal to the annual interest which would have been produced by the part of the fund applied in extinguishing such annuities or debt: Provided that whenever the annual income of the sinking fund is not less than the amount of the annuities or interest of the debt, or of so much of them respectively as have not been extinguished, the annual sums required by this section to be paid into the sinking fund may cease to be paid.

Dissolution of the company.

27. As soon as conveniently may be after the transfer the company shall proceed to wind up their affairs, and the members of the committee of management then in office, and the survivors and survivor of them, shall without re-election continue in office, if willing to act, until such affairs be wound up; and if the number of the said committee shall by death, resignation, or otherwise be reduced at any time below five before the completion of such winding up, the continuing members may from time to time elect from out of the then annuitants any other members, but so that the number of the committee shall not by any such election exceed twelve; and when and so soon as the affairs of the company have been wound up the company shall be by virtue of this Act dissolved; but the company shall, notwithstanding the passing of this Act, also have and retain all the powers in their Acts necessary for collecting and enforcing the payment of all unpaid water rate and rents accruing and accrued due prior to the said 25th day of March 1878, and on payment of all such water rate and rents such powers as regards the company shall cease.

Sale and transfer of undertaking of limited company to Corporation.

28. From and after the passing of this Act the undertaking of the limited company shall be by virtue of this Act transferred to and vested in the Corporation, in consideration of the payment, within six months of the passing of this Act, by the Corporation to the limited company of such a sum of money as shall be agreed on between the Corporation and the limited company, not exceeding two thousand pounds, and the receipt in writing of any three directors of the limited company shall effectually discharge the Corporation from the said sum, and the Corporation shall not be bound to see to the application of such moneys or liable for any misapplication thereof.

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Deeds of transfer to be executed by companies.

29. The company and the limited company respectively shall forthwith after the passing of this Act, at the expense of the Corporation, execute deeds of transfer of their respective undertakings, duly stamped and truly stating the consideration, which deeds may be in the form set forth in the schedule to this Act or to the like effect, with such variations and additions as circumstances require.

Limits of supply.

30. The Corporation may supply and sell water within the city and within all or any of the parishes or places following; (that is to say,) Heavitree, St. Thomas the Apostle, Alphington, and Pinhoe, all in the county of Devon, and such parts of the parishes of St. David and St. Leonard as are situate in the county of Devon.

Water committee of council.

31. The management of the water undertaking of the Corporation, and the transaction of all business connected therewith, shall, unless and until the council by resolution determine otherwise, be vested (subject to such control as the council may from time to time think fit to exercise) in a committee of the council, to be styled the City Water Committee. Such committee shall consist of fourteen members of the council. The first members of such committee shall be chosen by the council within three weeks after the passing of this Act, and shall hold office till the ninth day of November 1879, and on that day and on the same day in every succeeding year (unless that day falls on a Sunday, and then on the following day) one half of the members of such committee shall go out of office. The council, immediately after the first appointment of the committee, shall determine who shall be the members to go out of office in the year 1879, and thereafter the members to go out of office shall always be those who have been members for the longest time without re-election. On the day in every year appointed for the retirement of one half the members as aforesaid, the council shall choose so many as shall be needed to supply their places, and a retiring member shall be re-eligible if qualified. The city water committee may elect a chairman and vice-chairman of their meetings, and may meet, adjourn, and generally regulate their proceedings as they think proper. A casual vacancy in such committee may be filled up by the council, but the person appointed to fill a casual vacancy shall hold office so long only as the person in whose stead he is appointed would have held office.

Water rents.

32. Notwithstanding anything in any Act affecting the company, the Corporation may take for a supply of water for domestic purposes for every house a sum not exceeding the rate of five per centum per annum on the annual rateable value of such house,

Supply of water by meter.

33. The Corporation may take for water supplied by meter a sum not exceeding one shilling and sixpence for every one thousand gallons.

Water rents to be paid in advance.

34. The proportion of the half year's water rents payable to the Corporation from the period at which they contract with any person for the supply of water for domestic purposes until the next half-yearly rent day (which half-yearly rent days shall, notwithstanding anything in any other Act, be the twenty-fifth day of March and the twenty-ninth day of September) shall be paid in advance at the time of making the contract, and the full water rent for each half year shall from time to time thenceforward become due and be paid in advance on those half-yearly days as they occur.

Recovery of water rents.

35. In case any person liable to payment of any water rent neglects or refuses to pay the same for the space of seven days after demand thereof by the collector or other authorised officer of the Corporation, any justice having jurisdiction where that person then resides, or where the water was supplied, may issue his summons to him requiring him to appear before two justices having jurisdiction as aforesaid, at a time and place appointed, then and there to show cause why the sum so demanded should not be paid, and if on the appearance of such person, or, in default of appearance, after proof of service of the summons either personally or at the last known place of abode or of business of such person, no sufficient cause is shown to the contrary, two justices having jurisdiction as aforesaid may issue their warrant of distress for seizure and sale of the goods and chattels of such person for the recovery of the amount proved before such justices to be due from him, together with costs.

Owners in certain cases liable to water rents.

36. Where the annual rateable value of a house supplied with water by the Corporation is less than ten pounds, or the house is let to monthly or weekly tenants, the owner shall be primarily liable to the payment of the water rents, and the provisions of this Act for the recovery of water rents shall apply for the recovery of water rents from owners as well as occupiers.

Power to Corporation to supply fittings, &c.

37. The Corporation may, if requested by any person supplied or about to be supplied by them with water, furnish to him at his costs and charges, and from time to time repair and alter, any such pipes, valves, meters, cocks, cisterns, baths, soil-pans, water-closet apparatus, and receptacles as may be required, and may provide all materials and do all works necessary or proper in that behalf.

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Public drinking fountains.

38. The Corporation from time to time, when and as they think it expedient, may put up and continue, and from time to time remove or discontinue, drinking fountains and cattle troughs, with proper conveniences for the gratuitous supply of water to the public (but for drinking only) in such public places within the limits of this Act for water supply as the Corporation think fit, but not against any private dwelling-house, warehouse, counting-house, or shop, except with the consent of the owner and occupier thereof, or against any public building unless the building shall be the property of the Corporation.

Contracts for supplying water for public purposes.

39. The Corporation may from time to time enter into and carry into effect contracts and agreements with any sanitary authority for the supply by the Corporation, within the limits of this Act, of water to or for such sanitary authorities or persons respectively, whether in bulk or otherwise, and for what purposes soever, and the contracts respectively may be for such times and for such remuneration and on such terms and conditions whatsoever as the contracting parties think fit, and the contracting parties respectively may apply any of the funds or revenues belonging to them respectively, or at their respective disposal, for the fulfilment on their part of the contracts so entered into by them respectively.

For preventing waste, &c. of water.

40. For preventing waste, misuse, undue consumption, or contamination of the water of the Corporation the following provisions shall have effect; namely,

(1.) The Corporation may from time to time make such regulations as they think fit for those objects, provided that such regulations shall have no validity unless and until they shall have been approved by the Local Government Board:

(2.) By any such regulations the Corporation may direct the use and prescribe the size, nature, strength, and materials, and the mode of arrangement, alteration, and repair, of pipes, valves, cocks, cisterns, soil-pans, waterclosets, and other apparatus or receptacles to be used for conveying, delivering, and receiving water, and may interdict any arrangement and the use of any pipe, valve, cock, cistern, bath, soil-pan, watercloset, or other apparatus or receptacle in their judgment likely to occasion waste, misuse, undue consumption, or contamination of water:

(3.) The Corporation shall not be bound under any agreement or otherwise to supply or to continue to supply water

to any person unless their regulations are duly observed by him : A.D. 1878.

(4.) The Corporation, if any person supplied by them with water does not observe their regulations, may, if they think fit, after six hours notice in writing, and by or under the direction of their authorised officer, repair or alter any defective pipe, valve, cock, cistern, soil-pan, watercloset, or other apparatus or receptacle belonging to or used by such person, and the power of entry given by section 15 of the Waterworks Clauses Act, 1863, and the provisions of that section relative thereto, shall extend and apply to entry for the purpose of such repair or alteration, and the expenses thereof shall be repaid to the Corporation by the person on whose credit the water is supplied, and may be recovered by them in any court of competent jurisdiction : 26 & 27 Vict. c. 93.

(5.) A copy of any regulations made under this section, signed and certified by the town clerk to be a true copy and to have been duly confirmed, shall in all legal proceedings be evidence, until the contrary is proved, of the due making, confirmation, and existence of such regulations, without further or other proof.

Provided that it shall not be competent for the Corporation to make any regulations under or by virtue of this section if and so long as the supply of water given by the Corporation shall be intermittent only ; but nevertheless the powers given to the Corporation by this section shall come into force and be exerciseable by the Corporation immediately upon their giving a constant or continuous supply of water : Provided also, that if the Corporation, at any time after the passing of this Act, make any such regulations, and the same are approved by the Local Government Board and take effect within the whole or any part of the limits of this Act, the Corporation shall thenceforth provide and keep in the pipes to be laid down by them a supply of pure and wholesome water sufficient for the domestic use of all the inhabitants of the district within which such regulations are in force, who shall, as provided by the Waterworks Clauses Act, 1847, be entitled to demand a supply and shall be willing to pay water rents for the same, and such supply shall be constantly laid on at such a pressure as will make the water reach the top story of the highest houses within the said district. 10 & 11 Vict. c. 17.

Constant pressure.

41. Subject to the provisions contained in the preceding section, water supplied under this Act need not be constantly laid under

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pressure or be continuously supplied, or be supplied at a level above that at which water can be supplied by gravitation from the service reservoir from which the supply is taken.

Sale of portions of water undertaking to sanitary authorities.

42. If at any time after the passing of this Act any sanitary authority within the limits of the water supply of the Corporation shall give not less than six months notice in writing to the Corporation of their desire to purchase that portion of the undertaking of the Corporation which is contained within their district, and shall obtain the consent of the Local Government Board to such purchase, and shall apply to Parliament or the Local Government Board for power to purchase such portion of the undertaking of the Corporation (except the reservoirs and the mains, pipes, and engines or other apparatus which shall be necessary for supplying with water any other part of the Corporation's limits of supply) and to supply water within such district, then it shall not be lawful for the Corporation to oppose such application (except as to the details thereof), and if such powers be granted the Corporation shall sell and such sanitary authority shall purchase such portion of the undertaking of the Corporation (except as aforesaid) within the district of such sanitary authority, at such price as shall be fixed, in default of agreement, by arbitration under the provisions of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and the Corporation shall apply the proceeds of any sale under this section in the same manner as they are required to apply moneys borrowed under the powers of this Act: Provided always, that no such authority shall be authorised until after the completion of such purchase to supply water to any part of such district, and that after the completion of such purchase all obligations on the part of the Corporation to supply water within such district shall cease and determine.

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

Power to borrow money.

43. The Corporation may from time to time borrow for the purposes of the execution by them of this Act, and of defraying the costs, charges, and expenses of applying for, preparing, and obtaining the same, such sums as they may from time to time think proper, not exceeding in the aggregate (except with the consent of the Local Government Board) one hundred and twenty thousand pounds.

Power of borrowing to be reduced in proportion to annuities issued.

44. The issue of annuities under this Act shall, during the continuance of such annuities, be taken as reducing the amount by this Act authorised to be borrowed without the approval of the Local Government Board to the extent of the capitalized value of the annuities issued, such value to be calculated on the basis of twenty years purchase; but on the redemption by the Corporation

of any such annuities (except by means of the sinking fund) the amount so authorised to be borrowed without such approval as aforesaid shall be increased by the amount of the capitalized value (calculated as aforesaid) of the annuities redeemed.

Power to mortgage.

45. For securing the repayment of moneys borrowed under the authority of this Act, the Corporation may mortgage the revenue of their water undertaking and the district fund and general district rate of the city, and in case the Corporation shall secure the repayment of such moneys by mortgage the provisions of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by the Commissioners, shall apply (mutatis mutandis) to the mortgages to be executed by the Corporation, subject to the following provisions; (namely,)

10 & 11 Vict. c. 16.

Power to issue coupons for interest on mortgages.

(1.) The Corporation may from time to time, if they think fit, issue to holders of their mortgages coupons for the interest from time to time to fall due thereon, in such form as the Corporation think fit, so as every coupon do refer to the mortgage to which it relates, and do specify the amount and time of payment of one half year's interest to fall due on the principal money secured by the mortgage, and be authenticated by the signatures of two persons thereunto expressly authorised by the Corporation (which authorisation shall be presumed until the contrary is shown); and on presentation of a coupon to the bank or person for the time being authorised by the Corporation to receive the same, such bank or person shall pay to the person presenting it the amount of interest thereon expressed and thereby appearing to be payable, and on audit of the accounts the coupon shall be accepted as a sufficient warrant for payment of the amount for which it was issued, but no bank or person shall be bound to make any payment of interest beyond the amount of the money of the Corporation then in their or his hands and applicable in that behalf:

Money borrowed on mortgage may be repaid by instalments.

(2.) All moneys borrowed or re-borrowed by the Corporation by mortgage under the authority of this Act may be borrowed and re-borrowed for any term not exceeding sixty-five years, and, subject as aforesaid, may be repaid by equal yearly or half-yearly instalments, or by means of a sinking fund: Provided that no money shall be re-borrowed for a period exceeding the unexpired term of the original loan:

Sinking fund for payment of money borrowed on mortgage.

(3.) The Corporation shall, at any time after the borrowing of any money on mortgage under the provisions of this Act, annually set apart as a sinking fund for the payment of

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moneys so borrowed, out of the revenue of the water undertaking, and out of the district fund and general district rate, upon the security of which such moneys have been borrowed, such a sum as will be sufficient to pay within the period stipulated with the lender (not exceeding sixty-five years from the time of borrowing) such portion of the principal moneys so borrowed as shall not be repayable by yearly or half-yearly instalments, which sum shall be accumulated in the way of compound interest by investing in Exchequer bills or Government securities, and the Corporation shall from time to time apply the said sinking fund in repayment of such portion of those principal moneys until thereby or otherwise the whole of such portions have been fully paid: Provided that whenever any of such principal moneys have been so paid off the Corporation shall thenceforward, until the whole of such principal moneys have been paid off, pay into the sinking fund every year, in addition to the other sums herein-before required to be set apart and appropriated, a sum equal to the annual interest of the principal money so paid off: Provided further, that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due and outstanding, the Corporation may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto:

Mortgagees may appoint a receiver.

(4.) The mortgagees of the Corporation respectively may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one tenth of the amount which the Corporation have borrowed on mortgage:

Protection of lenders from inquiry.

(5.) A person lending money to the Corporation secured by mortgage shall not be bound or entitled to inquire as to the observance by them of any 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:

Existing mortgages to have priority.

(6.) All mortgages granted by the Corporation, subsisting at the passing of this Act, shall during their continuance have priority of charge on the security therein comprised over

all mortgages, debenture stock, and annuities granted or issued under this Act. A.D. 1878.

Creation of debenture stock under 38 & 39 Vict. c. 83.

46. The Corporation may, if they think fit, by the creation and issue of debenture stock in manner provided by the Local Loans Act, 1875, raise all or any moneys which they are by this Act authorised to borrow, and may charge the revenue of the water undertaking and the district fund and general district rate of the city, or any or either of them, to secure repayment of the sums so raised, with interest accordingly.

Repayment of moneys borrowed under 38 & 39 Vict. c. 83.

47. All moneys borrowed by the Corporation in manner provided by the Local Loans Act, 1875, shall be repaid by them within sixty-five years after the same were respectively borrowed, by such one or more of the methods (including a sinking fund) provided by the Local Loans Act, 1875, as the Corporation may with respect to any loan or part of a loan determine. If the Corporation at any time think fit to form any such sinking fund, all sums paid into the same shall be invested as soon as may be by the Corporation in any manner in which trustees are by law for the time being authorised to invest trust moneys.

Application of revenue.

48. All moneys from time to time received by the Corporation by way of revenue in respect of their water undertaking shall be applied for the following purposes:

First, in payment of the establishment charges, that is to say, of the expenses properly chargeable to revenue of establishing, conducting, managing, and maintaining their waterworks and works connected therewith:

Secondly, in payment of the interest on the money for the time being due on account of the mortgage debt at the time of the transfer due by the company and charged on such undertaking under this Act:

Thirdly, in payment of the annuities granted to the shareholders of the company under the authority of this Act and for the time being payable by the Corporation, and in payment of the interest on the mortgages and debenture stock of the Corporation:

Fourthly, in providing for the redemption of annuities, and for the discharge of any moneys borrowed or raised under the authority of this Act in accordance with the provisions in that behalf of this Act or of the Local Loans Act, 1875, according as such moneys so borrowed or raised have been secured by mortgage under this Act or in the manner prescribed by the Local Loans Act, 1875, and the balance, if any, 38 & 39 Vict. c. 83.

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shall be applied in aid and reduction of the general district rate.

Separate water account to be kept.

49. The Corporation shall keep a separate account of all their receipts, credits, payments, and liabilities in respect of their water undertaking, to be called the "City Water Account," and such account shall be subject to the same provisions as to audit, examination, report, inspection, copies and extracts, and production of vouchers as other accounts of the Corporation.

Apportionment of items.

50. In all cases in which the Corporation keep separate accounts for separate purposes, they may apportion between those accounts or carry to any of them any receipts, credits, payments, and liabilities which from time to time it appears to them ought to be so apportioned or carried.

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

51. The town clerk shall, within twenty-one days after the expiration of each year during which any sum is required to be paid by instalment or set apart for a sinking fund 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 by 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 thereon 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 town clerk shall be liable to a penalty of not exceeding twenty pounds. 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 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.

Works affecting Great Western Railway Company to be con-

52. Whenever the Corporation in the exercise of the powers conferred by this Act shall require to lay down, alter, or replace any mains or pipes upon, across, or under, or to construct any works upon or under so much of the private road leading from the

Red Cow village to Exwick as crosses the railway of the Great Western Railway Company on the level, or upon or over any bridge of the Company crossing their said railway, such mains or pipes shall be laid and such works constructed to the reasonable satisfaction of the engineer of the Great Western Railway Company, and according to plans previously approved by such engineer and the engineer of the Corporation, or, in the event of their not agreeing, in such manner as shall be settled by arbitration in manner provided by the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration, and the Corporation shall pay to the Great Western Railway Company for any easement to be hereafter acquired by the Corporation upon, across, over, or under any of the railways, lands, works, or property of the South Devon Railway Company or of the Great Western Railway Company, as the case may be, such sum, either annual or otherwise, as may be agreed upon, or, failing agreement, as shall be settled by arbitration in the manner aforesaid.

structed to satisfaction of their engineer.

8 & 9 Vict. c. 18.

Notice to Great Western Railway Company before breaking up roads crossing railway on level.

53. Before opening or breaking up for any of the purposes of this Act the level crossing or any bridge referred to in the last preceding section, the Corporation shall give not less than fourteen clear days notice of their intention so to do, under the hand of their town clerk, to the secretary of the Great Western Railway Company, sent by post in a registered letter addressed to the Paddington Station, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as possible after the beginning of the work or the necessity for the same has arisen.

Saving rights of Topsham, Woodbury, and Lympstone Waterworks Company.

54. Nothing in this Act contained shall be held to prejudice, alter, diminish, or affect any of the rights, powers, or privileges vested in or enjoyed by the Topsham, Woodbury, and Lympstone Waterworks Company.

Expenses of Act.

55. The costs, charges, and expenses preliminary to and of and incidental to the transfer, and the preparing of, and applying for, and the 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, shall be paid by the Corporation out of moneys borrowed under this Act, or any other funds under their control.

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THE SCHEDULE.

Form of Deeds of Transfer of Undertakings of Companies to Corporation.

In pursuance of the Exeter Corporation Water Act, 1878, and in consideration of the payments by that Act authorised, the Exeter Water Company [*or* the Dartmoor and Exeter Water Supply Company, Limited,] do hereby convey, assign, and transfer unto the mayor, aldermen, and citizens of the city and county of the city of Exeter the undertaking of the Exeter Water Company [*or* the Dartmoor and Exeter Water Supply Company, Limited,] as defined by that Act; to hold the same unto the said mayor, aldermen, and citizens, their successors and assigns, and the said mayor, aldermen, and citizens do accept the same accordingly.

In witness whereof the said Exeter Water Company [*or* the said Dartmoor and Exeter Water Supply Company, Limited,] and the said mayor, aldermen, and citizens have hereto affixed their respective common seals this day of 1878.

Form of Certificate of Water Annuity.

The Exeter Corporation Water Act, 1878.

Certificate of Annuity No. £

By virtue of the Exeter Corporation Water Act, 1878, the mayor, aldermen, and citizens of the city and county of the city of Exeter certify that (subject to the provisions of that Act relating to the redemption of annuities) *A.B.* of is under that Act entitled to perpetual annuity (*or* annuities) of £ charged on the revenue of the water undertaking of the Corporation, the district fund, and general district rate, and substituted for the share (*or* shares) of £ (each) in the Exeter Water Company numbered (respectively) , and such annuity (*or* annuities) is (*or* are) payable to him, his executors, administrators, or assigns, at the office in Exeter of the treasurer of the Corporation, by equal half-yearly payments on the 25th day of March and the 29th day of September yearly, the first payment to be made on the 29th day of September 1878.

Given under the common seal of the Corporation this day of in the year of our Lord 18 .

Form of Transfer of Water Annuity.

The Exeter Corporation Water Act, 1878.

I, *A.B.* of , in consideration of £ paid to me by *C.D.* of , transfer to him, his executors, administrators, and assigns, the annuity (*or* annuities) Number 20

of £ charged by the Exeter Corporation Water Act, 1878, on the revenue of the water undertaking of the Corporation, the district fund, and general district rate, and substituted for the share or shares of £ (each) in the Exeter Water Company numbered (respectively) , and payable at the office in Exeter of the treasurer of the Corporation by half-yearly payments on the 25th day of March and the 29th day of September yearly, and all my rights and interests therein and thereto.

As witness my hand and seal this day of in the year of our Lord 18 .

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