CHAPTER ccxxx.

An Act to authorise the Urban District Council of Filey to supply water and gas and to acquire the undertaking of the Filey Water and Gas Company. A.D. 1898.

[12th August 1898.]

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

And whereas the Filey Water and Gas Company (in this Act called "the company") under the Filey Waterworks Act 1856 and the Filey Water and Gas Act 1891 are the owners of waterworks and gasworks and are supplying water and gas within the said district and neighbourhood:

And whereas the company has a mortgage debt of three thousand pounds:

And whereas it is expedient that the supply of water and gas should be under the control of the District Council and that they should be authorised to acquire the undertaking of the company:

And whereas it is expedient that powers be conferred upon the District Council as in this Act appears in relation to the supply of water and gas:

And whereas it is expedient that the District Council be authorised to borrow money and to apply their funds for the purposes of this Act:

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 District Council at a meeting held on the twenty-eighth day of September one thousand eight hundred and ninety-seven after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Scarborough Mercury being a local newspaper circulating in the district such notice being in addition to

A.D. 1898.

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 rate:

And whereas such resolution was published twice in the Filey Post and Weekly List of Visitors being a local newspaper circulating in the district 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 District Council at a further special meeting held in pursuance of a similar notice on the fourteenth day of January one thousand eight hundred and ninety-eight being not less than fourteen days after the deposit of the Bill in Parliament:

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

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

PRELIMINARY.

Short title.

1. This Act may be cited as the Filey Water and Gas Act 1898.

Provisions of certain general Acts incorporated.

2. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act namely:—

The Gasworks Clauses Act 1847 (except the provisions thereof with respect to the amount of profit to be received by the Undertakers when the gasworks are carried on for their benefit and section 38 relating to accounts) and the Gasworks Clauses Act 1871 (except sections 8 and 35) shall apply to the gas undertaking of the District Council:

The Waterworks Clauses Act 1847 (except section 83 and the provisions thereof with respect to the amount of profit to be received by the Undertakers when the waterworks are carried on for their benefit and except also the words in section 44 "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner") subject to the provisoes contained in section 57 of the Public Health Act 1875:

The Lands Clauses Acts except the provisions with respect to the purchase and taking of lands otherwise than by agreement and except section 127 of the Lands Clauses Consolidation Act 1845:

The Waterworks Clauses Act 1863.

Interpretation.

3. The several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned shall in this Act have the same respective meanings unless there is something in the subject or context repugnant to such construction Provided that in the Acts wholly or partially incorporated with this Act for the purposes of this Act—

The expressions "the Undertakers" and "the company" mean the District Council:

And in this Act unless the context otherwise requires—

"The district" means the urban district of Filey;

"The District Council" or "the Council" means the Filey Urban District Council;

"The company" means the Filey Water and Gas Company;

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

"The company's Acts" means the Filey Waterworks Act 1856 and the Filey Water and Gas Act 1891;

"The gas undertaking" and "the water undertaking" respectively mean the gas undertaking and the water undertaking of the District Council under this Act;

"Gas revenue" and "water revenue" respectively mean and include all moneys received by the District Council for or in relation to the gas undertaking and the water undertaking respectively 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 and gas (in this Act referred to as "the limits of supply") shall be as follows (that is to say):—

(1) The limits for the supply of water shall be the district of the Council and the parishes and townships of Gristhorpe and Lebberston and the District Council may with the consent in writing of the Scarborough Rural District Council as the rural sanitary authority having jurisdiction within the said parishes and townships of Gristhorpe and Lebberston but not otherwise supply water to the inhabitants of those parishes or either of them on such terms as may be now existing or may be agreed on between the District Council and the said inhabitants

A.D. 1898.

requiring such supply or the said Scarborough Rural District Council :

(2) The limits for the supply of gas shall be the district of the Council.

Act to be executed by District Council.

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

TRANSFER OF THE UNDERTAKING OF THE COMPANY.

Sale of undertaking to District Council.

6. The company shall sell and the District Council shall purchase subject to the terms and conditions herein-after set forth and at the price of fifty-five thousand pounds the water and gas undertakings of the company and all the company's powers rights and privileges in relation thereto and all other the property and assets real and personal of the company as the same existed on the first day of July one thousand eight hundred and ninety-eight save and except the particulars following (that is to say) the uncalled capital and all calls and arrears of calls on the shares of the company being unpaid all rates due in respect of gas and water on the said first day of July one thousand eight hundred and ninety-eight and the company's reserve fund and all other moneys securities for money and choses in action then belonging or due to the company and the stocks of coal coke and other residual products meters pipes fittings and fire goods in possession of the company on the same day The property of the company so to be purchased by the District Council is herein-after referred to as " the undertaking of the company."

Transfer.

7. (1) The purchase shall take effect as from the first day of July one thousand eight hundred and ninety-eight and shall be completed on the twenty-ninth day of September one thousand eight hundred and ninety-eight and the Council shall pay to the company interest at the rate of four per centum per annum on the said purchase money from the thirtieth day of June one thousand eight hundred and nniety-eight until the date of completion and if for any reason the purchase is not completed on the date aforesaid the Council shall pay interest on the purchase money to the company at the rate aforesaid until the actual date of completion.

(2) As and from the day on which the purchase is completed and the purchase money and interest as aforesaid is paid (herein-after called " the transfer ") the undertaking of the company shall by virtue of this Act become and be transferred to and shall thenceforth be vested in the District Council subject and according to the provisions of this Act and free as between the company and the District Council from all debts and liabilities affecting the same due from or payable by the company up to the thirtieth day of June one

thousand eight hundred and ninety-eight other than the mortgage debt of the company and thenceforth the District Council shall have and hold the undertaking.

(3) 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 District Council of the company's undertaking.

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

8. The company shall bear and pay all outgoings and liabilities of every kind including interest on their mortgage debt and liabilities in respect of causes of action existing on the thirtieth day of June one thousand eight hundred and ninety-eight and shall receive all gas and water rents or rates and other debts due to them and shall be entitled to all receipts from the undertaking up to the said thirtieth day of June one thousand eight hundred and ninety-eight and as from that date all outgoings (other than payments in respect of works in progress or course of construction at that date) and the interest on the mortgage debt and all other such liabilities as aforesaid shall be borne and paid by the District Council and if necessary such outgoings interest rents or rates including all rents rates or charges or other payments paid or payable in advance shall be appportioned.

Pending actions &c. against company.

9. If at the time of the transfer any action or other proceeding is pending or any cause of action or proceeding is 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 District Council as and when it might have been continued prosecuted and enforced if this Act had not been passed and the District Council shall indemnify the company against all costs thereof.

Contracts of company to be binding on District Council.

10. 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 (including an agreement dated the first day of July one thousand eight hundred and ninety-seven and made between the Scarborough Rural District Council of the one part and the company of the other part being an agreement for the supply of water to the parish of Gristhorpe) shall be as binding and of as full force and effect in every respect against or in favour of the District Council and may be enforced as fully and effectually as if instead of the company the District Council had been a party thereto Provided that as between the company and

A.D. 1898.

the District Council the provisions of this and the last preceding section shall not extend or be construed to relieve the company or the District Council as the case may be 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 or the District Council respectively.

Repeal of company's Acts.

11. The company's Acts shall as from the transfer be repealed except so far as may be necessary to give effect to the provisions of this Act and except the sections of the Filey Water and Gas Act 1891 set forth in the Second Schedule of this Act which sections shall apply and have effect as if the District Council were therein referred to instead of the company.

Maintenance of undertaking of company until transfer.

12. Until the transfer the undertaking of the company shall be maintained and carried on by the company on behalf and at the cost of the District Council in the ordinary course of business but the company shall not without the previous consent of the District Council under the hand of the clerk to the District 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.

Expenses of company of carrying on undertaking from date of purchase to be repaid by District Council.

13. Upon the transfer an account shall be stated as between the company and the District Council of all the costs charges and expenses properly incurred by the company in maintaining and carrying on the undertaking as from the first of July one thousand eight hundred and ninety-eight until the transfer and of all moneys received by the company to which the District Council shall be entitled under the provisions herein-before contained and in such account the District Council shall be charged with the sum of two hundred and ninety-three pounds as the agreed value on the said first day of July one thousand eight hundred and ninety-eight of the said stocks of coal coke and residual products meters pipes fittings and fire goods which shall and may so far as may be necessary be used and disposed of in the usual way in carrying on the said undertakings and except so far as so used and disposed of shall on payment to the company of what shall be found due to them on taking the said account become the property of the District Council who shall pay to the company what shall be found so due and such account shall be settled as between the company and the District Council within fourteen days after the transfer.

Mortgage debt to continue charge on undertaking.

14. The mortgage debt of the company and the interest thereon shall after the transfer continue to be a charge on the undertaking in the hands of the District Council to the same extent and with

the same incidents as if this Act had not been passed and as if the District Council were substituted for the company in respect of such mortgage debt. A.D. 1898.

Other debts to be paid by company.

15. Except as herein provided all debts (other than the said mortgage debt) sums of money and claims which at the time of the transfer are due or owing from or pending or existing against the company shall as between the District Council and the company be paid discharged and satisfied by the company and the company shall indemnify the District Council against the same.

Receipt for purchase money.

16. The receipt in writing of three of the directors of the company for any money to be paid to the company by the District Council shall effectually discharge the District Council from the sum which in such receipt shall be acknowledged to have been received and from being concerned 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 District Council are unable to obtain such receipt they may pay the amount under this Act 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 District Council by the cashier of the said bank for the said sum which shall have the same effect as the receipt of such three directors.

Purposes for which company to continue incorporated. Winding up of company.

17.—(1) From and after the transfer the company shall subsist only for the purpose of paying their debts and liabilities and of receiving and recovering the sums payable to the company as provided by this Act and distributing the purchase money and for winding up the affairs of the company and carrying into effect the purposes of this Act so far as they relate to the company and the directors of the company who are in office at the transfer and the survivors and survivor of them shall continue without re-election to hold the office of directors of the company and they or a majority of them shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes of this section:

If the number of directors of the company be reduced by death resignation or otherwise below three 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 or vacancies so caused.

(2) Forthwith after the transfer the directors of the company shall proceed to wind up the affairs of the company and after payment of the debts and liabilities of the company (other than the

A.D. 1898.

mortgage debt taken over by the District Council) shall pay and distribute their net moneys to and among the several persons who at the date of transfer are the registered shareholders of the company or their respective executors administrators and assigns in accordance with the scheme in this Act referred to.

(3) When the directors of the company are for six months after the date of transfer unable after diligent inquiry to ascertain the person to whom any money ought to be paid or who can give an effectual receipt for the same they may pay the same into the High Court or if not exceeding five hundred pounds into the county court of Yorkshire holden at Scarborough under the Trustee Act 1893 and every such payment shall effectually discharge the company and the directors thereof from all further liability with respect to the money so paid in.

(4) If any money is payable to any shareholder of the company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the company and the directors for the same.

(5) After the transfer and until the company shall be finally wound up and dissolved the company shall be entitled to retain the directors' minute books the share register and other books relating solely to the shareholders of the company and shall have access at all reasonable times to the other books documents and accounts relating to the transferred undertaking for the purpose of making up the accounts of the company to the date of transfer and for all other reasonable purposes in relation to the winding up of the company.

Dissolution of company.

18. Upon the purposes specified in the last preceding section being fulfilled the company shall ipso facto be dissolved.

As to distribution of purchase money.

19. The directors of the company shall as soon as possible after the payment of the purchase money prepare a scheme or schemes for the distribution thereof among the shareholders entitled thereto and in case of the withdrawal or rejection or partial rejection of any such scheme may prepare other or modified schemes in lieu thereof and the following provisions shall have effect The directors shall send a copy of the scheme to all the proprietors of the company together with a notice summoning a meeting of the proprietors to consider the scheme at a place and time to be named in the notice being not sooner than seven days nor later than fourteen days after circulation of the scheme.

The said scheme shall be submitted to the said meeting and if any proprietor present thereat either in person or by proxy shall object thereto and shall insist on such objection the scheme and such objection thereto shall be referred to the arbitrament of one of

Her Majesty's counsel to be agreed upon between the directors and the dissenting proprietors or failing agreement by one of Her Majesty's counsel to be appointed by the Attorney-General on the application of either of the parties who shall have power to settle the scheme and the scheme so settled shall be binding on all parties.

Power to take additional lands by agreement.

20. The District Council may for any of the purposes of their water or gas undertakings purchase by agreement any lands not exceeding ten acres but the District Council shall not create or permit the creation or continuance of any nuisance on any such lands and no lands shall be used by the District Council for the purpose of manufacturing gas or residual products except the lands described in the First Schedule to this Act.

Restriction on taking houses of labouring class.

21. The District 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 have been or shall be subsequently so occupied.

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

As to filtration of certain waters.

22. Before using the water discharged from the surface wells at Hunmanby constructed under the Filey Waterworks Act 1856 the Council shall construct a filter bed or filter beds for filtering and shall effectually filter through such filter bed or filter beds the water discharged from those wells before it shall enter the pipes of the Council for distribution.

Provision for sale of portion of waterworks and plant to other sanitary authorities.

23. If at any time after the passing of this Act any local authority whose district is beyond the district of the Council but as to the whole or any part thereof within their limits for the supply of water shall give not less than six months' notice in writing to the Council of their desire to purchase such portion of the waterworks and plant of the Council as is contained within the district of any such local authority 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 waterworks and plant of the Council (except the mains and

A.D. 1898.

pipes or other apparatus which shall be necessary for supplying with water any other part of the limits of the Council for the supply of water) and to supply water within such district then it shall not be lawful for the Council to oppose such application (except as to the details thereof) and if such powers of purchase and supply be granted the Council shall sell and such local authority shall purchase the portion of the waterworks and plant of the Council (except as aforesaid) within the district of such local authority at such price and upon such terms and conditions as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Acts Any such purchase shall be deemed to be a purpose of the Public Health Act 1875 except so far as the same may be otherwise provided for by Parliament The Council shall apply the proceeds of any sale under this section in the same manner as they are required to apply money received from sales of land under this Act Provided that after the completion of such purchase all obligations on the part of the Council to supply water within the district of the purchasing authority shall cease and determine.

WATER SUPPLY.

Power to hold lands for protection of works.

24. The District Council may hold any lands acquired by them under the powers of this Act and which may in their opinion be necessary for the purpose of protecting their waters and waterworks against pollution nuisances encroachment or injury and so long as such necessity shall in the opinion of the District Council continue such lands shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts Provided that the District Council shall not create or permit a nuisance and shall not erect or authorise or permit the erection on any such lands whilst so held by them of any buildings other than buildings necessary for or connected with their waterworks.

Rates for supply of water for domestic purposes.

25. The District Council shall at the request of the owner or occupier of any dwelling-house or part of a dwelling-house entitled under the provisions of this Act to demand a supply of water for domestic purposes furnish to such owner or occupier a sufficient supply of water for domestic purposes at rates not exceeding the rates herein-after specified (that is to say) :—

Where the rateable value of the premises so supplied with water does not exceed five pounds the sum of eight shillings and eightpence per annum ;

Where such rateable value exceeds five pounds at the rate of ten pounds per centum per annum upon such rateable value ;

and so in proportion for any shorter period Provided that the rateable value of any such premises as aforesaid shall be ascertained

by the valuation list in force at the commencement of the quarter for which the water rate accrues or if there is no such valuation list then in force then by the last rate made for the relief of the poor. A.D. 1898.

Rates for water-closets and baths.

26. In addition to the foregoing charges the District Council may charge in respect of every watercloset beyond the first for which no additional charge shall be made a sum not exceeding seven shillings and sixpence 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 containing as usually filled for use more than fifty gallons such sum as the District Council may think fit such additional sums to be paid quarterly in advance and to be recoverable in all respects with and as the water rate Provided that the District Council shall not be compelled to supply water for any bath containing more than fifty gallons.

Byelaws for preventing waste &c. of water.

27. For preventing waste misuse undue consumption or contamination of the water of the District Council the following provisions shall be in force and have effect namely :—

(1) The District 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 or either of them which may 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 District 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 182 to 186 (except as much thereof as relates to byelaws made by a rural sanitary authority) of the Public Health Act 1875 :

(3) In case of failure of any person to observe such byelaws as are for the time being in force the District 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

A.D. 1898.

or receptacle fittings or appliances belonging to or used by any 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 repaid to the District Council by the person on whose credit the water is supplied and may be recovered by them as water rates are recoverable.

Contracts for supplying water in bulk beyond limits.

28. The Council may from time to time enter into and carry into effect agreements with any local authority company or person for the supply of water by the Council to any such local authority company or person respectively in bulk beyond the Council's limits of supply for any purpose and for any such remuneration and on such terms and conditions and for such period as may be agreed upon Provided that such supply shall not be given except with the consent in writing of any local authority or company supplying water under the authority of Parliament within the district within which the supply is to be given Provided also that the Council shall not supply water under any such agreement if and so long as the affording such supply would prevent the Council from giving a full and sufficient supply for all purposes within their limits of supply.

Supply of water by agreement.

29. Subject to the provisions of this Act the District Council may if they think fit enter into agreements for the supply of water within the limits of supply for other than domestic purposes on such terms and conditions as they think fit and may enter into agreements for the supply of water by measure within the limits of supply either for domestic or other purposes provided that such supply for other than domestic purposes does not interfere with the supply for domestic purposes Provided that the price to be charged shall not exceed two shillings per thousand gallons with a minimum payment of eight shillings per quarter.

Rent of meters.

30. The District Council may charge a rent for each meter for measuring water provided by them at a rate per annum not exceeding fifteen per centum of the cost of such meter such rent to be paid quarterly in advance and to be recoverable in all respects with and as the water rate.

District Council to keep meters &c. in repair.

31. The District Council shall at times at their own expense keep all meters for measuring water let by them for hire to any person in proper order for correctly registering the supply of water and in default of their doing so such person shall not be liable to pay rent for the same during such time as such default continues The District Council shall for the purpose aforesaid have access to and be at liberty to remove test inspect and replace any such meter at all reasonable times.

Register of meters &c. to be evidence.

32. 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 District Council Provided that if the District 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.

As to recovery of charges for supply of water.

33. All charges due to the District Council under any agreement for the supply of water by measure or for other than domestic purposes may be recovered in all respects as water rates are recoverable and the District Council shall have in respect to such charges all such and the like powers and remedies as they for the time being have with respect to water rates.

Power for District Council to supply materials &c.

34. The District Council may furnish to any person supplied or about to be supplied or any part of whose property or premises is supplied or is about to be supplied by them with water and may from time to time renew repair or alter any meters cisterns pipes valves ferrules cocks baths soil-pans and waterclosets apparatus receptacles fittings and appliances in connexion with such supply and may provide all materials and do all work necessary or proper in that behalf and the reasonable charges of the District Council in providing such materials and executing such work shall be paid by the person requiring the same.

Constant pressure.

35. Water supplied under this Act need not be laid on constantly under pressure beyond the district until the expiration of two years after the transfer of the undertaking of the company.

Where several houses supplied by one pipe each to pay.

36. 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 District Council by a distinct pipe.

Entry on premises in certain cases.

37. In all cases in which any premises which shall have been supplied with water shall have become unoccupied or upon which it shall be necessary to enter for the purpose of preventing the waste of water the Council their agents and workmen (after giving notice to the owner or occupier as provided in section 34 of the Filey Water and Gas Act 1891) may enter into any such premises

A.D. 1898.

between the hours of nine of the clock in the forenoon and five of the clock in the afternoon for the purpose of preventing such waste of water and may in the case of unoccupied premises remove any pipe fittings meter or apparatus the property of the Council and any persons preventing or obstructing or in anywise interfering with the officers servants or workmen of the Council while effecting or endeavouring to effect such entry or removal shall for every such offence forfeit and pay to the Council a penalty not exceeding five pounds.

Injuring meters &c.

38. Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or any fittings belonging to the District Council or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the District Council shall (without prejudice to any other right or remedy for the protection of the District Council or the punishment of the offender) for every such offence forfeit and pay to the District Council a sum not exceeding five pounds and the District Council may in addition thereto recover the amount of any damage by them sustained The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the District Council when such pipe meter 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 or fittings.

Application of section 267 of Public Health Act to notices under this Act.

39. The provisions of section 267 of the Public Health Act 1875 in reference to the giving of notices shall apply to all notices given under the powers of this part of this Act.

GAS SUPPLY.

Power to supply gas apparatus engines &c. for heating motive and other purposes.

40. The District Council may purchase provide supply sell let for hire and otherwise deal in and fix set up alter remove and re-fix gas meters and fittings gas engines stoves ranges pipes and other apparatus and appliances articles and things for lighting motive power the warming and ventilation of houses and buildings the cooking of food and for all other purposes for which gas can or may be used and may require and take such remuneration in money or such rents and charges for and make such terms and conditions with respect to the sale supply letting fixing setting up altering or removing of such meters fittings engines stoves ranges pipes and

other apparatus and appliances articles and things as aforesaid and for securing their safety and return to the District Council as may be agreed upon between the District Council and the person to or for whom the same are sold supplied let fixed set up altered or removed.

Gas consumers to give notice to Council before removing.

41. Twenty-four hours' notice in writing shall be given to the Council at their gas office by every gas consumer before he shall quit any premises supplied with gas by meter by the Council and in default of such notice the consumer so quitting shall be liable to pay to the Council the money accruing due in respect of such supply up to the next usual period for ascertaining the register of the meter on such premises or the date from which any subsequent occupier of such premises shall require the Council to supply gas to such premises whichever shall first occur Notice of the provisions of this section shall be contained in every demand note for gas-rent.

Power to lay pipes against buildings.

42. The Council with the consent of the owner and occupier of any building may lay any pipe branch or any other necessary apparatus from any main or branch pipe into through or against such building for the purpose of lighting it and may with the like consent provide and set up any apparatus necessary for securing to such building a proper and complete supply of gas and for measuring and ascertaining the extent of such supply and may with the like consent repair replace alter discontinue and remove any such pipe branch or apparatus.

Limiting price of gas.

43. The price to be charged by the Council for gas supplied by them to persons who shall burn the same by meter shall not at any time exceed four shillings and sixpence per one thousand cubic feet.

Discounts.

44. The District Council may if they think fit allow discounts or rebates to every consumer of gas within the district who shall within twenty-eight days after delivery of the gas account pay such account at the gas office of the District Council (that is to say):—

When such account amounts to one pound and under five pounds at the rate of two and a half per centum;

When such account amounts to five pounds and under ten pounds at the rate of five per centum;

When such account amounts to ten pounds and upwards at the rate of ten per centum:

The accounts referred to in this section shall be for a supply of gas during such period not being more than three months nor less

A.D. 1898.

than one month as the District Council shall from time to time prescribe.

Pressure of gas.

45. All gas supplied by the Council to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six-tenths of an inch and from sunset to midnight not less than eight-tenths of an inch in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer and any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment from time to time test the pressure at which the gas is supplied and may for that purpose open any street road passage or place vested in or under the control of any local or road authority and the provisions of the Gasworks Clauses Act 1871 with reference to testing of gas and to penalties shall mutatis mutandis apply to such testing of pressure and two hours' previous notice shall be given to the Council of the time and place at which such testing shall be conducted.

Quality of gas.

46. The prescribed number of candles shall be fifteen.

Testing place.

47. Within six months from the transfer a testing place shall be provided at some convenient part of the gasworks of the Council.

Burner.

48. The prescribed burner shall be Sugg's London argand burner number one with a six inch by one-and-three-quarter inch glass chimney but if at any time and so long as the gas flame rises above the top of that glass a six inch by two inch chimney shall be used or any other burner or chimney approved for this purpose by the Board of Trade.

Council to pay interest on money deposited as security for gas meter &c.

49. If any person is required by the Council to give to them security for the payment of the price or rent of a gas meter the Council shall pay interest after the rate of four per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands

Supply of gas in bulk.

50. The Council may enter into and carry into effect agreements with any local authority of any district beyond the limits of this Act or with any company authorised to supply gas under parliamentary authority beyond such limits for the supply by the Council to such authority or company respectively of gas in bulk.

FINANCIAL.

Power to borrow.

51. The District Council may for the purposes herein-after mentioned from time to time (in addition to any other moneys

which they are now authorised to borrow) borrow at interest on the security of the gas revenue and the water revenue respectively (so far as such purposes relate to the gas undertaking or the water undertaking as the case may be) and of the district fund and the general district rate as follows (that is to say):— A.D. 1898.

Firstly For paying the costs and expenses of this Act as herein-after defined such sum as may be required;

Secondly For the purpose of acquiring the undertaking of the company the sum of fifty-five thousand pounds of which thirty-one thousand nine hundred pounds is attributable to the water undertaking and twenty-three thousand one hundred pounds to the gas undertaking and for defraying the taxed costs and expenses incident to such acquisition and to the transfer of the undertaking to the District Council such sum as may be required;

Thirdly For the purpose of paying off the mortgage debt of the company such sum as may be required;

Fourthly For the extension and improvement of the water and gas undertakings of the Council the sum of ten thousand pounds;

Fifthly For working capital for the water undertaking and gas undertaking respectively and for additions and alterations to the waterworks and gasworks respectively such sum or sums as may be from time to time sanctioned by the Local Government Board:

And may with respect to the water undertaking or with respect to the gas undertaking from time to time mortgage the water revenue or the gas revenue respectively and also the district fund and the general district rate for securing the repayment of the moneys so borrowed with interest accordingly Provided also that the powers of borrowing moneys by this Act conferred shall not be restricted by any of the regulations contained in the Public Health Act 1875 and that in calculating the sum the District Council may borrow under the Public Health Act 1875 or any other enactment any sums they may borrow under this Act shall not be reckoned.

Inquiries by Local Government Board.

52. 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 The District Council shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries or

A.D. 1898.

proceedings under this Act 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.

Provisions of Public Health Act 1875 as to mortgages to apply.

53. Sections 236 to 239 of the Public Health Act 1875 shall extend and apply mutatis mutandis to and in relation to all mortgages granted under this Act.

Power to borrow under Local Loans Act 1875.

54. The District Council may if they think fit borrow any moneys which they are by this Act authorised to borrow under the powers and subject to the provisions of the Local Loans Act 1875 by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another Any moneys borrowed in manner by this section authorised shall be a charge upon and shall be paid out of the same fund rate revenue and security as they would be charged upon and paid out of if raised by way of mortgage under the powers of this Act and such fund rate revenue or security shall be deemed to be the local rate as defined by the Local Loans Act 1875.

Payment off of money borrowed.

55. The District Council shall within the prescribed periods pay off all money borrowed by them under the powers of this Act or of the Local Loans Act 1875 and the mortgage debt of the company by equal annual or half-yearly instalments of principal or of principal and interest combined or by way of sinking fund or by any one or more of those methods.

Periods for discharge of borrowed moneys.

56. The District Council shall pay off all moneys borrowed by them under the authority of this Act and the mortgage debt of the company which at the time of transfer shall be owing within the respective periods following (that is to say):—

(A) As regards moneys borrowed for the purpose firstly herein-before mentioned within ten years;

(B) As regards moneys borrowed for the purpose of paying off so much of the mortgage debt of the company as is attributable to the water undertaking of the company and for the purpose of paying so much of the price of the undertaking of the company as is attributable to the water undertaking and of paying one half of the costs and expenses secondly herein-before mentioned within fifty years;

(C) As regards moneys borrowed for the purpose of paying off so much of the mortgage debt of the company as is attributable to the gas undertaking of the company and for paying so much of the price of the undertaking of the company as is attributable to the gas undertaking and of paying one half of the costs and expenses aforesaid within forty years;

A.D. 1898.

(D) As regards moneys borrowed for the purposes fourthly herein-before mentioned within fifty years;

(E) As regards moneys borrowed by the District Council under the authority of this Act with the consent of the Local Government Board within such period as they may think fit to sanction:

Provided it shall not be obligatory to commence such repayment by instalments or to set apart or appropriate any moneys to or for the purposes of a sinking fund until the expiration of one year from the date of borrowing the same:

The respective periods for which the District Council are herein-before authorised to borrow money are in this Act referred to as "the prescribed periods."

Power to re-borrow.

57. If the District Council pay off any part of any moneys borrowed by them under the powers of this Act otherwise than by instalments appropriations or annual repayments or by means of a sinking fund or out of the proceeds of sale of land or other property or out of fines or premiums on leases or other moneys received on capital account except borrowed money they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing has been made and shall be deemed to form the same loan as the money originally borrowed and the obligations of the District 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.

Regulations as to sinking fund.

58. If the Council determine to pay off by means of a sinking fund any moneys borrowed under the authority of this Act or the mortgage debt of the company the following regulations shall be observed:—

The Council in every year shall appropriate and set apart out of the rate and revenue on the security of which such moneys are charged such equal annual sums as will with the accumulations thereof by way of compound interest at not exceeding three per centum per annum with yearly rests be sufficient to pay off the whole of the principal moneys for the repayment of which the sinking fund is provided within the prescribed periods:

The rate of accumulation on which the amounts paid to the sinking fund are based is herein-after referred to as "the prescribed rate":

Provided as follows (that is to say):—

(A) The yearly sums so to be appropriated and set apart shall be invested from time to time and accumulated in the way

A.D. 1898.

of compound interest by investing the same and the dividends interest and annual income thereof respectively in securities in which trustees are for the time being authorised to invest or in mortgages debenture stock or other securities (not being annuities or transferable by delivery) duly created and issued by any local authority as defined by the Local Loans Act 1875 (other than the Council) and any such investments may be from time to time varied or transposed Provided that if in any year the income arising from the investments of the sinking fund does not equal the prescribed rate any deficiency shall be made good out of the rate and revenue from which the annual payments to such fund are made and that if in any year such income exceeds the prescribed rate any excess may be applied in reduction of the annual payments which would otherwise be required to be made to such fund :

(b) The Council may at any time apply the whole or part of the sinking fund in or towards the repayment of the moneys for the repayment of which it was set apart in such order and manner as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of the borrowed moneys to which such sinking fund is applicable are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the prescribed rate Provided also that whenever and so long as the value of the securities standing to the credit of the sinking fund taken at the market price of the day shall be equal to the amount of the moneys then outstanding for the repayment of which it was set aside the Council may in lieu of investing the yearly income of such fund apply the same in payment of interest on moneys in respect of which the fund was set aside and may during such periods discontinue the payment to the sinking fund of the yearly sums required to be paid thereto.

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

59. The clerk to the District Council shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon

which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return such clerk shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appears to the Local Government Board by such return or otherwise that the District Council have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court and the provisions of this section shall mutatis mutandis apply to appropriations and annual repayments.

Application of moneys borrowed.

60. All moneys borrowed by the District Council under this Act shall be applied only to purposes for which they are by this Act respectively authorised to be raised and to which capital is properly applicable.

Application of moneys from sale &c. of land.

61. The District Council shall apply all moneys from time to time received by them in respect of any sales exchanges or dispositions of lands and premises by this Act authorised or by way of fine or premium on any lease of any such lands in or towards paying off moneys borrowed and for the time being owing under this Act or if there shall be no moneys owing under this Act such proceeds shall be applied in or towards paying off any other moneys for the time being owing by the District Council Provided that such proceeds when used to pay off borrowed moneys shall not be applicable to the payment of instalments appropriations or annual repayments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

Protection of lenders from inquiry.

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

A.D. 1898.

District Council not to regard trusts.

63. The District Council shall not be bound to recognise or see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person or of any one of the persons or as the case may be of the personal representative or representatives of the person or the last survivor of the persons in whose name or names any loan or security for a loan stands in the books of the District Council shall from time to time be a sufficient discharge to the District Council in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the District Council have had express or implied notice of any 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 books and the District Council shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application thereof.

Saving for existing charges.

64. Nothing in this Act shall prejudicially affect any charge on the district fund or general district rate or the estates and property of the District Council subsisting at the passing of this Act and every mortgagee or person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of the rate or property subject to his charge as if this Act had not been passed.

District Council to keep separate accounts of gas and water under-takings.

65. The District Council shall keep separate accounts of their receipts and expenditure for gasworks and waterworks purposes respectively on capital and revenue account and they may apportion between those accounts any expenditure incurred for purposes common to both The provisions of section 58 of the Local Government Act 1894 shall apply to the accounts of the District Council and the accounts of their committees officers and assistants under this Act.

Application of gas revenue.

66. The District Council shall apply the gas revenue as follows (that is to say):—

Firstly In payment of their costs charges and expenses of and incidental to the collecting and recovering of gas revenue and of the borrowing of money for gasworks under this Act;

Secondly In payment of the working and establishment expenses and costs of management and maintenance of the gas undertaking;

Thirdly In providing the moneys required to pay the interest on moneys borrowed by them under this Act for the gas undertaking and on the debenture debt of the company;

Fourthly In providing the requisite appropriations instalments or sinking fund under this Act or otherwise making provision for repayment of the moneys borrowed under this Act for the gas undertaking and the debenture debt of the company;

Fifthly In providing a reserve fund for the gas undertaking if they think fit by setting aside such money as they from time to time think reasonable and investing the same and the resulting income thereof in Government securities or any security in which trustees are or may be authorised to invest trust moneys (except securities of the District Council) and accumulating the same at compound interest until the fund so formed amounts to a sum equal to one-tenth of the gas capital of the District Council which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the District Council from the gas undertaking or to meet any extraordinary claim or demand at any time arising against the District Council in respect of that undertaking or to the improving and extending thereof and so that if such fund is at any time reduced it may thereafter be again restored to the said sum and so from time to time as often as such reduction happens;

Sixthly In improving and extending the gas undertaking:

And any balance remaining in any year as may in the opinion of the District Council not be required for carrying on the gas undertaking and paying the current expenses connected therewith and the annual proceeds of the reserve fund when such fund amounts to five thousand pounds shall be applied by the District Council in equal moieties in reducing to the consumer the cost of gas supplied under the authority of this Act and in increasing the district fund.

Application of water revenue.

67. The District Council shall apply the water revenue as follows (that is to say):—

Firstly In payment of their costs charges and expenses of and incidental to the collecting and recovering of water revenue and of the borrowing of money for waterworks under this Act;

Secondly In payment of the working and establishment expenses and costs of management and maintenance of the water undertaking;

Thirdly In providing the moneys required to pay the interest on moneys borrowed by them under this Act for the water undertaking and on the debenture debt of the company;

Fourthly In providing the requisite appropriations instalments or sinking fund under this Act or otherwise making provision

A.D. 1898.

for repayment of the moneys borrowed under this Act for the water undertaking and the debenture debt of the company;

Fifthly In providing a reserve fund for the water undertaking if they think fit by setting aside such money as they from time to time think reasonable and investing the same and the resulting income thereof in Government securities or any security in which trustees are or may be authorised to invest trust moneys (except securities of the District Council) and accumulating the same at compound interest until the fund so formed amounts to a sum equal to one-tenth of the water capital of the District Council which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the District Council from the water undertaking or to meet any extraordinary claim or demand at any time arising against the District Council in respect of that undertaking or to the improving and extending thereof and so that if such fund is at any time reduced it may thereafter be again restored to the said sum and so from time to time as often as such reduction happens:

And any balance remaining in any year as may in the opinion of the District Council not be required for carrying on the water undertaking and paying the current expenses connected therewith and the annual proceeds of the reserve fund when such fund amounts to five hundred pounds shall be applied by the District Council in increasing the district fund.

As to deficiency in receipts.

68. Any deficiency in the revenues and receipts of the District Council on account of the gas undertaking or water undertaking shall in the absence of a reserve fund applicable to the purpose or so far as such reserve fund is not sufficient for the purpose be from time to time made good out of the district fund and the next general district rate to be made by the Council shall be increased so far as may be necessary to recoup to the district fund the amount so made good out of that fund.

MISCELLANEOUS.

Notice of discontinuance.

69. A notice to the District Council for the discontinuance of the supply of gas or water shall not be of any effect unless it is in writing and left in the office of the District Council or sent by prepaid letter by the post addressed to the District Council.

Contracts for gas and water not to disqualify.

70. No person entering into any contract with the District Council for the supply of gas or water to him or for any meter or apparatus to be furnished to him or for any work to be done for

him for the purposes of such supply shall thereby be disabled from being a member officer or servant of the District Council or incur any penalty by reason of such contract but any member of the District Council concerned directly or indirectly by himself or any partner in any such contract except for a domestic supply shall not take part in any proceeding relative thereto at any meeting of the District Council.

As to penalties.

71. Penalties recovered by the District Council under this Act shall belong to the District Council and shall be applied in the manner herein-before provided with respect to moneys from time to time received by them in respect of the gas revenue and 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.

Expenses of Act.

72. All the costs charges and expenses of and incident to and preparatory to the obtaining and passing of this Act or otherwise in relation thereto shall when taxed and ascertained by the taxing officer of the House of Lords or the House of Commons be paid by the District Council in the first instance out of the district fund and general district rate but ultimately out of money borrowed under this Act.

The SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.

GAS LANDS.

All that piece or parcel of land at present occupied by the company's gasworks situate in the parish of Filey and containing three roods or thereabouts and bounded on or towards the north-west and north by the road leading from Filey Railway Station to the town of Filey on or towards the east and south-east by grass fields and on or towards the south-west by the station yard and premises of the North Eastern Railway Company.

SECOND SCHEDULE.

The sections of the Filey Water and Gas Act 1891 exempted from repeal :—

Sections 23 24 25 26 27 34 35 36 37 and 38.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE and SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
JOHN MENZIES & Co., 12, HANOVER STREET, EDINBURGH, and
90, WEST NILE STREET, GLASGOW; or
HODGES, FIGGIS, & Co., LIMITED, 104, GRAFTON STREET, DUBLIN.