CHAPTER cxxxv.

An Act to empower the Mayor Aldermen and Burgesses of the Borough of Huddersfield to construct a temporary Tramroad for the purposes of their Waterworks Undertaking. [31st July 1894.]

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WHEREAS the mayor aldermen and burgesses of the borough of Huddersfield (in this Act called "the Corporation") are the owners of the Huddersfield Waterworks and supply water under statutory authority to the said borough and various adjacent places:

And whereas by the Huddersfield Waterworks Act 1871 (in this Act called "the Act of 1871") the Corporation were authorised to construct in the township of Marsden-in-Almondbury in the parish of Almondbury (among other waterworks) a reservoir to be called the "Blakeley Reservoir" and the time for constructing the same was by the Huddersfield Corporation Act 1882 extended to the thirteenth day of July one thousand eight hundred and ninety-six: 34 & 35 Vict. cap. xxiii. 45 & 46 Vict. cap. ccxxxvi.

And whereas by the Huddersfield Corporation Waterworks Act 1890 (in this Act called "the Act of 1890") the Corporation were authorised to construct various waterworks and among others a large reservoir in the said township of Marsden-in-Almondbury in the said parish of Almondbury in that Act and in this Act referred to as the "Butterley Reservoir": 53 & 54 Vict. cap. cxv.

And whereas the Corporation are proceeding with the construction of the said reservoirs and there is a difficulty in procuring in the immediate neighbourhood materials for the construction of the embankments thereof but such materials can be obtained in the township of Marsden-in-Huddersfield in the parish of Huddersfield at a point about one mile distant from the Butterley Reservoir and it would be a great saving of cost and time to the Corporation if they were authorised to construct a temporary tramroad from the said point to the site of the embankment of that reservoir for the purpose of conveying such materials:

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And whereas the Corporation have agreed with the owners lessees and occupiers of the lands on or through which the said tramroad will be constructed for an easement for the purpose of such construction and it is expedient that the said tramroad be authorised:

And whereas a plan and section showing the line and level of the said tramroad such plan showing the lands to be used for the purposes of the tramroad and a book of reference to the said plan containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of those lands have been deposited with the clerk of the peace for the west riding of the county of York and are herein-after referred to respectively as the deposited plan section and book of reference:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas an absolute majority of the whole number of the council at a meeting held on the third day of May one thousand eight hundred and ninety-four after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the "Huddersfield Daily Examiner" a local newspaper published and circulating in the borough 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 borough rate:

And whereas such resolution was published twice in the said "Huddersfield Daily Examiner" 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 second day of July one thousand eight hundred and ninety-four being not less than fourteen days after the deposit of the Bill for this Act in Parliament:

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

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

Short title.

1. This Act may be cited for all purposes as the Huddersfield Waterworks Tramroad Act 1894.

2. The following parts of Acts (that is to say):— Incorporation of general Acts.

The Lands Clauses Consolidation Acts (except the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase and taking of lands otherwise than by agreement and the entry upon lands by the promoters of the undertaking); and

Section 3 (Interpretation of terms) and Part II. and the provisions referred to under the general headings "Offences" and "Miscellaneous" of Part III. of the Tramways Act 1870;

so far as they are applicable to and are not expressly varied by or inconsistent with the provisions of this Act are incorporated with and form part of this Act and shall apply to the tramroad undertaking of the Corporation Provided that the provisions of the Tramways Act 1870 shall not apply to any portion of the tramroad not laid in or across a public road.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Act have the same respective meanings unless there be something in the subject or context repugnant to such construction: Interpretation.

The expression "the company" means the Corporation;

The expression "the tramway" means the tramroad by this Act authorised;

The expression "the undertaking" means the tramroad undertaking of the Corporation; and

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

4. Subject to the provisions of this Act the Corporation may make form lay down work use and maintain wholly in the west riding of the county of York and in the line and according to the level shown on the deposited plan and section a tramroad (single line) 1 mile 1·50 chains in length commencing in the township of Marsden-in-Huddersfield in the parish of Huddersfield near the north-eastern face of the Stand Edge Tunnel of the Huddersfield and Manchester Railway of the London and North Western Railway Company and terminating in the township of Marsden-in-Almondbury in the parish of Almondbury at the western end of the puddle trench of the intended embankment (now in course of construction) of the Butterley Reservoir with all necessary and proper rails plates sleepers junctions turntables turnouts crossings and passing-places stables Power to make tramroad.

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engine-houses sheds buildings arches piers abutments embankments works and conveniences connected therewith and may by agreement enter upon and use such of the lands shown on the deposited plan and described in the deposited book of reference as are required for the purpose.

As to crossing public roads &c.

5.—(1.) In the construction of the tramroad the Corporation may within the limits of deviation shown on the deposited plan carry the same with a single line only across and on the level of the roads numbered respectively on the deposited plan 5 11 and 25 in the said parish of Almondbury.

(2.) The Corporation shall erect and maintain at all times gates across the tramroad at each side of the said roads respectively and shall unless otherwise permitted by the Board of Trade from time to time in writing under the hand of an assistant secretary employ proper persons to open and close such gates and such gates shall be kept constantly closed across the said tramroad except during the time when engines carriages or trucks passing along the tramroad shall have occasion to cross the said roads respectively and such gates shall be of such dimensions and so constructed as when closed to fence in the tramroad and prevent cattle or horses passing along the said respective roads from entering upon the tramroad and the conductors of any engines carriages or trucks passing along the tramroad or other the person whose office or duty it may be to open or close the said gates shall cause the same to be closed as soon as such engines carriages or trucks shall have passed through the same under a penalty of forty shillings for every default therein.

Power to deviate.

6. The Corporation in constructing any portion of the tramroad may deviate from the lines thereof shown on the deposited plan to any extent within the limits of deviation delineated thereon and they may deviate from the levels shown on the deposited section to any extent not exceeding three feet either upwards or downwards except where laid across a street or road.

For protection of Marsden Local Board.

7. For the protection of the local board for the district of Marsden (herein-after called "the board") the following provisions shall have effect:—

(1.) The Corporation shall construct and for ever afterwards maintain a footpath six feet in width on land belonging to them in the township of Marsden in the parish of Marsden-in-Almondbury in the county of York from Bank Top to Binn Road or to the intended diversion thereof:

(2.) The said footpath shall be constructed from the lane numbered 82 on the plans deposited with the clerk of the peace

for the said west riding in the month of November one thousand eight hundred and eighty-nine for the purposes of the Bill for the Act of 1890 and shall commence in the field numbered 107 on those plans and shall pass along the north-western boundary of the portion purchased by the Corporation of the garden and field numbered 106 and 102 respectively on those plans and thence across the premises of or reputed to belong to the Corporation known as Lower Bank Bottom Mill and over the Wessenden Brook Bridge numbered 152 on the said plans From the north-eastern approach of the said bridge the footpath shall be constructed partly along the eastern slope of the by-wash now in course of construction of the Butterley Reservoir and partly through the fields numbered 141 142 and 143 respectively on the said plans to Binn Road or the intended diversion thereof at a point north-east of the intended embankment of the Butterley Reservoir and in a line as near as possible with the boundary wall between the fields numbered 142 and 143 on the said plans:

(3.) The said footpath shall be completed within six months after the completion of the Butterley Reservoir:

(4.) The said footpath shall after its completion be at all times open to the public and shall be used as a footpath only:

(5.) In case any dispute or question shall arise between the Corporation and the board with reference to the position of the said footpath or any part thereof or to the construction thereof or otherwise under this section the same shall be referred to the arbitrament of Henry Brook Dransfield of Huddersfield surveyor or in case of his death or refusing to act then to the surveyor for the time being for the west riding of Yorkshire and the costs of and incident to such reference shall be borne and paid by the Corporation or the board as the arbitrator may direct.

Tramroad to be used only for purposes of the said reservoirs and to be temporary.

8. The tramroad shall be used exclusively for the purposes of conveying the officers and servants of the Corporation and their contractors and materials to and from the said reservoirs and immediately after the completion thereof the rails and sleepers shall be taken up and the easement over the lands occupied by the tramroad and works shall cease.

Corporation may use trucks adapted for use on railways.

9. The Corporation may use upon the tramroad trucks adapted for use upon railways and notwithstanding anything in the Tramways Act 1870 contained to the contrary such trucks or any engines used on the tramroad may extend more than twenty-two inches beyond the outer edge of the rail of the tramroad on either side and subject to and in accordance with the provisions of this Act the

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Corporation may convey on the tramroad all such materials as may be requisite for the construction of their said reservoirs and all persons who may be engaged in such construction.

Purchase of lands by agreement.

10. The Corporation may by agreement purchase for the purposes of their undertaking any lands not exceeding eight acres and they may on such lands and on any lands purchased or acquired under the authority of this Act erect or construct and hold stables buildings and other conveniences in connexion with their undertaking but nothing in this Act shall exonerate the Corporation from any indictment action or other proceeding for nuisance in the event of any nuisance being caused by them on any land purchased or acquired by agreement under the powers of this section.

Restriction on taking houses of labouring class.

11. The Corporation shall not under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers 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.

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

Power to take easements &c. by agreement.

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

Gauge and mode of formation of tramroad.

13. The tramroad shall be constructed with two rails on the gauge of four feet eight and a half inches and shall where laid in or across a road be laid and maintained in such a manner that the

uppermost surface of the rails shall be on a level with the surface of the road.

As to rails of tramroad.

14. The rails of the tramroad shall be such as the Board of Trade may approve.

Corporation to adopt improvements if required by Board of Trade.

15. The Board of Trade may from time to time upon the application of the local authority or road authority require the Corporation to adopt and apply such improvements in the tramroad so far as the same is laid across any road under the control of such local authority or road authority including the rails thereof as experience may from time to time suggest having regard to the greater security of the public and advantage to the ordinary traffic of such street or road and the Corporation shall with all reasonable despatch comply with any order made by the Board of Trade for the purpose of carrying out such improvements.

Further provisions as to construction of tramroad.

16. In addition to the requirements of section 26 of the Tramways Act 1870 the Corporation shall at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of constructing laying down maintaining or renewing the tramroad lay before the Board of Trade a plan showing the proposed mode of constructing laying down maintaining or renewing such tramroad and a statement of the materials intended to be used therein and the Corporation shall not commence the construction laying down maintenance or renewal of the tramroad or any part of the tramroad respectively until such plan and statement have been approved by the Board of Trade and after such approval the works shall be executed in accordance in all respects with such plan and statement and under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the road authority as provided by section 26 of the said Act.

For the protection of the London and North Western Railway Company.

17. The following provisions for the protection of the London and North Western Railway Company (in this section referred to as "the North Western Company") shall apply and have effect:—

(1) The Corporation shall construct so much of the said tramroad as shall be upon the property of the North Western Company including any junction thereof with the sidings of the North Western Company in such a position and according to such plans sections and in every other respect as shall be approved of by the principal engineer of the North Western Company and the North Western Company may construct at the reasonable cost of the Corporation such catch points sidings and other works at or near the said junction as shall be required by the said principal engineer The points or switches of such junction shall be under the control of signalmen to be appointed

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by the North Western Company at the cost of the Corporation who shall also bear the reasonable cost of maintaining and working the signals at the junction with the main line of any siding with which the tramroad shall connect so far as such signals are rendered necessary for the proper conduct of the traffic to or from the tramroad:

(2) The North Western Company shall at any time hereafter be at liberty to alter the position of the said tramroad where the same is on their property without paying any compensation to the Corporation but so that they do not unnecessarily interfere with the traffic on the said tramroad:

(3) If by reason of the construction of the said tramroad it shall become necessary to add to or alter the signal or signals upon the railway of the North Western Company the same shall be so added to or altered by that company and the reasonable expense thereof shall be repaid to them by the Corporation:

(4) In constructing and maintaining the tramroad where the same affects the railways works or lands of the North Western Company the Corporation and their contractors servants agents or workmen shall not obstruct impede or interfere with the free and interrupted and safe user of the railway or other works of the North Western Company:

(5) The Corporation shall at all times maintain all the works of the tramroad affecting the North Western Company in substantial repair and good order to the reasonable satisfaction in all respects of the said principal engineer and if and whenever the Corporation fail so to do the North Western Company may make and do as well in and upon the lands of the Corporation or the lands acquired by them for the purposes of this Act as their own lands all such works and things as such principal engineer may reasonably think requisite in that behalf and the sum from time to time certified by such principal engineer to be the reasonable amount of such their expenditure shall be repaid to the North Western Company by the Corporation and in default of repayment may be recovered in any court of competent jurisdiction:

(6) For the purpose of constructing the tramroad the Corporation shall acquire only an easement in and upon the works lands and property of the North Western Company and the North Western Company may and shall grant such easement accordingly The amount to be paid for the acquisition of such easement shall be settled in the case of difference in the manner provided by the Lands Clauses Consolidation Act 1845 with respect to the purchase of lands otherwise than by agreement:

(7) The Corporation shall on demand pay to the North Western Company all reasonable expenses of the employment by the North Western Company during the construction of the works of the said tramroad and junction affecting the North Western Railway of a sufficient number of inspectors and watchmen for watching their said railway and works and for preventing as far as may be all interference danger and accident from any of the operations or from the acts and defaults of the Corporation or their contractors or any person or persons in the employment of the Corporation or their contractors with reference thereto or otherwise:

(8) The Corporation shall be responsible for and make good to the North Western Company all costs losses damages and expenses from time to time occasioned to the North Western Company or to their railway or any of their works and property or to the traffic on the said railway or to any company or person using the same by reason of the execution failure or want of maintenance of the works by this Act authorised or the user thereof or by any act or omission of the Corporation or any of the persons in their employment or their contractors agents or others and the Corporation shall effectually indemnify and hold harmless the North Western Company from all claims and demands upon or against them by reason of any such execution or failure want of maintenance or user or of any such act or omission as aforesaid:

(9) On the completion of the said reservoirs the Corporation shall take up and remove the rails and sleepers of the said tramroad so far as the same are on the lands and property of the North Western Company and shall to the reasonable satisfaction of the said principal engineer restore the site thereof to the same state and condition in which it was before the said tramroad was constructed.

Inspection by Board of Trade.

18. The tramroad shall not be opened for traffic until the same has been inspected and certified to be fit for such traffic by the Board of Trade.

Penalties for not maintaining rails in proper order.

19. The Corporation shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the tramroad where laid in any road and (except so far as repairs and maintenance are undertaken by the road authority) the paving metalling or other road materials laid down by the Corporation and the substructure upon which the same rest and if the Corporation at any time fail to comply with

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this provision or with any of the provisions of section 28 of the Tramways Act 1870 they shall for every such offence be subject on information laid or complaint made to a penalty not exceeding five pounds and in case of a continuing offence to a further penalty not exceeding five pounds for every day after the first on which such failure continues and such penalty shall be a penalty within the meaning of section 56 of the said Act In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramroad or any portion thereof is situate or by twenty inhabitant ratepayers of such district that the Corporation have made default in complying with the provisions in this section contained or with any of the requirements of section 28 of the Tramways Act 1870 the Board of Trade may if they think fit direct an inspection by an officer to be appointed by the said Board and if such officer report that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Corporation to such penalty or penalties in respect thereof as is or are by this section imposed.

Tramroad always to be kept on level of surface of roads.

20. If and whenever the level of any road across which any part of the tramroad is laid or authorised to be laid shall be altered the Corporation may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Application of road materials excavated in construction of tramroad.

21. Any paving metalling or material excavated by the Corporation in the construction of their works from any road under the jurisdiction or control of any road authority may be used or applied by the Corporation so far as may be necessary in or towards constructing the tramroad or works connected therewith and in or towards the reinstating of the road and the maintenance for six months after completion of the tramroad within the district of such road authority of so much of the roadway on either side of such tramroad as the Corporation are required to maintain and the Corporation shall if so required by such road authority deliver the surplus paving metalling or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority or to such person or persons as he may appoint to receive the same Provided that if within seven days after the setting aside of the surplus arising from the excavation of any such paving metalling or material and after notice given by the Corporation such surplus is not removed by the said surveyor or by some other person or persons named by him for that purpose such

surplus paving metalling or material shall absolutely vest in and belong to the Corporation and may be dealt with removed and disposed of by them in such manner as they may think fit Any difference between the Corporation and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Act 1870 with respect to differences between the promoters and any road authority.

Agreements between the Corporation and road authorities.

22. The Corporation and any local or road authority may subject to the provisions of this Act from time to time enter into any agreements with respect to the mode of constructing and to the maintaining working removing renewing repairing and using of the tramroad situate within the district of such local or road authority and the rails plates sleepers and works connected therewith and the facilitating of the traffic over and along the same.

Use of steam power to be subject to regulations of Board of Trade.

23. The trucks used on the tramroad may be moved by horse power and subject to the provisions of this Act by steam power Provided that in the exercise of the powers by this Act conferred with respect to the use of steam power the Corporation shall be subject to any regulations which the Board of Trade by any order may and which they are hereby empowered to make from time to time as and when they may think fit for securing to the public all reasonable protection against danger in the exercise of those powers.

Penalty for using steam power contrary to Act or regulations.

24. The Corporation or any company or person using steam power on the tramroad contrary to the provisions of this Act or to any regulations made by the Board of Trade under the authority of this Act shall for every such offence be subject to a penalty not exceeding ten pounds and also in the case of a continuing offence to a further penalty not exceeding five pounds for every day during which such offence continues after conviction therefor Provided always that whether any such penalty has been recovered or not the Board of Trade in case in their opinion the Corporation or any company or person using steam power on the tramroad under the authority of this Act have or has made default in complying with the provisions of this Act or with any such regulations may by order direct the Corporation or such company or person to cease to exercise the powers aforesaid and thereupon the Corporation or such company or person shall cease to exercise the powers aforesaid and shall not again exercise the same or any of the same unless with the authority of the Board of Trade and in every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

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Byelaws.

25. Subject to the provisions of this Act the Board of Trade may from time to time make and when made may rescind annul or add to byelaws with regard to the use of steam power upon the tramroad for all or any of the following purposes (that is to say):—

For regulating the use of the bell whistle or other warning apparatus fixed to the engine or carriage;

For regulating the emission of smoke or steam from engines used in working the tramroad;

For providing that engines and trucks shall be brought to a stand at such places and in such cases of horses being frightened or of impending danger as the Board of Trade may deem proper for securing safety;

For providing for the due publicity of all regulations and byelaws in force for the time being in relation to the tramroad.

Penalty for breach of byelaws.

26. Any person offending against or committing a breach of any of the byelaws made by the Board of Trade under the authority of this Act shall be liable to a penalty not exceeding forty shillings.

As to recovery of penalties.

27. The provisions of the Tramways Act 1870 with respect to the recovery of penalties shall apply to any penalty under this Act and to any penalty for non-observance of any byelaw made by the Board of Trade under the authority of this Act.

Orders and byelaws to be signed &c.

28. All orders and byelaws made by the Board of Trade under the authority of this Act shall be signed by a secretary or an assistant secretary of the Board of Trade.

Provisions as to arbitration.

29. Where under the provisions of the Tramways Act 1870 and this Act any matter in difference is referred to the arbitration of any person nominated by the Board of Trade the provisions of the Arbitration Act 1889 or of any Act or rules whereby the same has been or may be modified or superseded shall apply in every such arbitration and the decision of the arbitrator shall be final and conclusive and binding on all parties.

Form and delivery of notices.

30. With respect to notices and to the delivery thereof by or to the Corporation the following provisions shall have effect viz.:—

(1) Every notice if given by the local or road authority shall be sufficiently authenticated by being signed by their surveyor or clerk:

(2) Any notice to be delivered by or to the Corporation to or by the local or road authority may be delivered by being left at the principal office of the local or road authority or of the Corporation as the case may be or by being sent by post in a registered letter addressed to their respective clerk or surveyor at their principal

office and every such letter shall be deemed to be received by the local or road authority or by the Corporation as the case may be on the day on which the same ought to be delivered at their principal office in the ordinary course of post.

Damages and charges in case of dispute to be settled by justices.

31. In all cases wherein damages or charges are by this Act directed or authorised to be paid and the manner of ascertaining the amount thereof is not specified or provided for such amount in case of non-payment thereof or any dispute respecting the same shall be ascertained and determined by two or more justices for the west riding of the county of York.

Recovery of penalties &c.

32. All offences under this Act and all penalties and forfeitures damages charges tolls and costs inflicted imposed or ordered to be paid or payable under or by virtue of this Act may be taken cognizance of or recovered under the provisions of the Summary Jurisdiction Acts.

Application of moneys under former Acts.

33. The Corporation may apply to the purposes of the works authorised by this Act (being purposes to which capital is properly applicable and not otherwise) any moneys authorised by any of the recited Acts to be raised for waterworks purposes and which have not been applied as by those Acts respectively authorised.

Expenses of executing the Act.

34. All expenses incurred by the Corporation in carrying into execution the provisions of this Act (except such as are to be paid out of borrowed moneys) shall be paid out of the revenue received by the Corporation for or in respect of or incidental to the supply of water by them and any deficiency in such revenue shall be met out of the borough fund.

Costs of Act.

35. All costs charges and expenses of and preliminary and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation.

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