CHAPTER li.

An Act to empower the urban district council of Mallow to supply gas and to provide for the transfer of the undertaking of the New Mallow Gas Company Limited to the Council and for other purposes. A.D. 1910.

[26th July 1910.]

WHEREAS the district of Mallow in the county of Cork (hereinafter called "the district") is an urban county district in Ireland within the meaning of the Local Government (Ireland) Act 1898 and is under the management and control of the urban district council of Mallow (in this Act called "the Council") and the Council is also the urban sanitary authority for the district within the meaning of the Public Health (Ireland) Act 1878:

And whereas the district is supplied with gas by the New Mallow Gas Company Limited (hereinafter called "the company") and it is expedient for the purposes of providing a more efficient and economical supply that the gas supply of the district should be in the hands of the Council and that the gasworks lands buildings pipes plant and other works and the undertaking of the company should be transferred to and vested in the Council and also that the Council should be authorised to maintain extend and improve the said gasworks upon the lands described in the schedule to this Act and therein to continue works for the manufacture and storage of gas and the by-products thereof as in this Act provided:

And whereas the demand for the supply of gas within the district is increasing and it is necessary and expedient that provision should be made therefor and that the gasworks pipes mains and other works aforesaid should be extended and improved

A.D. 1910.

and it will be for the public and local advantage that the Council should be empowered to supply gas within certain townlands and places adjacent to the district in which there is no supply of gas:

And whereas it is expedient that the Council be authorised to borrow such sums as may be required for the purposes of this Act:

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

And whereas in the manner provided by the Borough Funds (Ireland) Act 1888 an absolute majority of the whole number of the Council at a meeting held on the twenty-ninth day of November one thousand nine hundred and nine after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Cork Constitution a newspaper circulating in the district such notice being in addition to the ordinary notices required for summoning such meeting resolved that the Council should promote the Bill for this Act and that the expense of and in connection with such promotion should be defrayed out of the funds rates rents and revenues of the district under the control of the Council:

And whereas such resolution was twice published in the said Cork Constitution viz. on the thirtieth day of November and second day of December one thousand nine hundred and nine and has received the approval of the Local Government Board for Ireland:

And whereas the propriety of the promotion of the Bill for this Act was by an absolute majority of the whole number of the Council approved at a further special meeting held in pursuance of a similar notice on the seventh day of January one thousand nine hundred and ten being not less than fourteen days after the deposit of the Bill for this Act in Parliament:

And whereas a meeting of the persons qualified to vote at an election of members of the Council called in the manner provided by the said Borough Funds (Ireland) Act 1888 by resolution approved of 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 King'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):— A.D. 1910.

Part I.

Preliminary.

1. This Act may be cited as the Mallow Urban District Gas Act 1910. Short title.

2. This Act is divided into Parts as follows:— Act divided into Parts.

Part I.—Preliminary.

Part II.—Gas.

Part III.—Financial.

Part IV.—Miscellaneous.

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

The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845) as amended by this Act:

The Gasworks Clauses Act 1847 (except sections 30 to 38 with respect to profits of the company and sections 45 and 46) provided that section 13 of the said Act shall be read as if the words "or any premises" were inserted after the words "private building":

The Gasworks Clauses Act 1871 (except sections 7 8 24 and 27 and sections 29 and 35 and Schedule B).

4. 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— Interpretation.

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

And in this Act unless the context otherwise requires—

"The district" means the urban district of Mallow;

A.D. 1910.

"The district fund" and "the district rate" mean respectively the district fund and the rate raised by the Council under the powers of the Towns Improvement (Ireland) Act 1854 and the Public Health (Ireland) Act 1878 as extended by any other Act;

"The Council" means the urban district council of the district;

"The clerk" means the clerk of the Council and includes any person duly authorised to discharge temporarily the duties of that office;

"The company" means the New Mallow Gas Company Limited;

"Statutory security" means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation in the United Kingdom or of any other local authority as defined by section 34 of the Local Loans Act 1875 or of any urban district council in Ireland but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council.

Words and expressions to which meanings are assigned by the Public Health (Ireland) Act 1878 or by the Local Government (Ireland) Act 1898 have in this Act the same respective meanings.

Part II.

Gas.

Gas limits.

5. The limits of this Act for the supply of gas shall be the district and the townlands of Bearforest Upper Clyda Clydaville Gooldshill Gortnagraiga and Keatley's Close and so much of the townlands of Annabella Ballydahin Ballyellis Carrigoon Beg Carhookeal Kilnockan Killetra Lackanalooha Leaselands Quartertown Lower and Spaglen as are situate in the rural district of Mallow.

Acquisition of the Undertaking of the New Mallow Gas Company Limited. A.D. 1910.

Council to purchase gas undertaking.

6.—(1) Within three months after the passing of this Act the Council shall give to the company notice in writing under their seal of their intention to purchase the undertaking and thereupon the company shall sell to the Council and the Council shall purchase the undertaking free as between the Council and the company from encumbrances for such price or consideration being a sum in gross and on and subject to such terms and conditions as may be agreed upon between the parties or as failing agreement shall be determined by arbitration under and pursuant to the provisions of the Lands Clauses Acts and in the construction of those Acts for the purposes of this section "the Council" shall be deemed to be the promoters of the undertaking and "the undertaking of the company" shall be deemed to be lands taken as required for the undertaking For the purposes of this section the expression "Lands Clauses Acts" in this section shall (notwithstanding anything contained in the section of this Act whereof the marginal note is "Incorporation of general Acts" or the Interpretation Act 1889) not include the Railways Act (Ireland) 1851 the Railways Act (Ireland) 1860 the Railways Act (Ireland) 1864 or the Railways Traverse Act or any Act for the time being in force amending such Acts.

(2) The Council shall pay the purchase money to the company on such day as may be agreed between the Council and the company or failing agreement on the twenty-fifth day of March the twenty-fourth day of June the twenty-fourth day of September or the twenty-fourth day of December which shall first happen after the expiration of two months from the award of the arbitrator and on payment of the purchase price prescribed by such award the undertaking of the company with their rights powers and privileges shall by virtue of this Act become and shall thenceforth be transferred to and vested in the Council and such transfer and vesting are in this Act referred to as "the transfer" Provided that if the Council shall not pay the said purchase money on the date so agreed or fixed as aforesaid they shall pay interest thereon at the rate of four pounds per centum per annum until payment.

(3) The production of a King's Printer's copy of this Act duly stamped together with a receipt for the purchase money

A.D. 1910.

purporting to be signed by three directors of the company or by the cashier of the Bank of Ireland shall (unless it be proved that the purchase money has not been paid) be conclusive evidence in all courts and proceedings of the transfer to and vesting in the Council of the undertaking of the company.

(4) For the purposes of this section the expression "the undertaking of the company" includes all the gasworks engines mains pipes and machinery lands and buildings plant fixed and moveable and other property and all the rights powers and privileges vested in or belonging to or had or enjoyed by the company at the date of the transfer of the undertaking of the company to the Council save and except—

(A) The cash balances (other than consumers' deposits) in the company's hands or in those of their bankers or agents on the day of the transfer securities for money and all sums standing to the credit of their reserve fund and all undivided profits and all surplus stock-in-trade and stores not in use which shall be purchased by the Council at a valuation in the usual way;

(B) All the rents and profits of and all book and other debts due to the company and all rates accrued due on the date of the transfer and the books and papers relating exclusively to the shareholders and the constitution of the company.

Receipt for purchase money.

7. The receipt in writing of three directors of the company for the purchase money or any part thereof shall effectually discharge the Council from the sum which in such receipt shall be acknowledged to have been received and from being answerable or accountable for the loss misapplication or nonapplication thereof Provided that if from any cause the Council are unable to obtain such receipt they may pay the money into the Bank of Ireland in the name of the Accountant-General of the Supreme Court in Ireland to an account to be opened "In the matter of the Mallow Urban District Gas Act 1910" and a receipt shall be given to the Council by the cashier of the said bank for the money which shall have the same effect as the receipt of such three directors.

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

8. The company shall bear and pay all outgoings and liabilities of every kind properly chargeable to revenue and shall receive and retain all gas rates or rents and other payments due to them and shall be entitled to all receipts from the under-

taking up to the transfer Provided that nothing in this Act shall entitle the company to retain for their own benefit so much of any gas rates or rents or other payments paid or payable in advance as shall be attributable to any period after the transfer but such rates rents or other payments shall be apportioned and so much thereof as is attributable to any period after the transfer shall be paid over by the company to the Council. A.D. 1910.

Maintenance until transfer.

9. Until the date of the transfer the undertaking of the company shall be maintained and carried on by the company as heretofore in the ordinary course of business but the company shall not without the previous consent of the Council under the hand of their clerk 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.

Liabilities to be defrayed by company.

10. All charges debts and liabilities upon or affecting the undertaking or due from or payable by the company which at the date of the transfer shall remain undischarged unpaid or unsatisfied shall be discharged paid or satisfied by the Company.

Actions &c. not to abate and penalties to be recoverable.

11. No action suit prosecution or other proceeding whatsoever commenced either by or against the company shall abate or be discontinued or prejudicially affected by reason of the transfer but the same shall continue and take effect either in favour of or against the company in the same manner in all respects as the same would have continued and taken effect in relation to the company if the transfer had not been made and all penalties incurred by reason of any offence against the provisions of any regulations of the company previously to the date of the transfer may be sued for and all offences committed against such provisions previously to the date of the transfer may be prosecuted in such or the like manner to all intents and purposes as such penalties might have been sued for or such offences prosecuted if the transfer had not taken place and all rents rates and moneys payable to the company prior to the date of the transfer may be sued for and recovered by the company in the same manner in all respects as the same might have been sued for and recovered if this Act had not been passed.

Contracts to be binding on Council.

12. All agreements contracts conveyances deeds and other instruments affecting the company and in force at the date of the transfer shall except as in this Act otherwise provided after

A.D. 1910.

the transfer be as binding and of as full force and effect against or in favour of the Council and may be enforced as fully and effectually as if instead of the company the Council had been a party thereto.

Books &c. to remain evidence.

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

Copy of Act to be registered.

14. The Council shall forward to the Registrar of Joint Stock Companies a printed copy of this Act and it shall be recorded by him and if such copy is not forwarded within three months from the passing of this Act the Council shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the copy is omitted to be forwarded and every penalty shall be recovered summarily.

There shall be paid to the registrar by the Council on such copy being registered the like fee as is for the time being payable under the Companies (Consolidation) Act 1908 on registration of any document other than a memorandum of association.

Maintenance of Gasworks and Supply of Gas.

Power to continue and maintain gasworks.

15. Subject to the provisions of this Act the Council may in or upon the lands described in the schedule to this Act maintain alter improve enlarge and extend renew or discontinue the gas and other works of the Company and may upon those lands or any part thereof erect construct maintain and as often as occasion may require enlarge alter improve and extend renew or discontinue gasworks retorts gasometers receivers drains sewers mains pipes stopcocks machinery and other works and apparatus and conveniences and may do all such acts as may be proper for making and storing gas and for supplying gas for public and private purposes in bulk or otherwise for lighting heating cooking or motive power within the limits of supply as defined in this Act and for the conversion or utilisation and distribution of materials used in and about the manufacture of gas and of residual products resulting from such manufacture and may make store and supply gas accordingly and the Council may manufacture sell provide and deal in coke coal-tar asphaltum

ammoniacal liquor oil and all other refuse or residual products arising remaining produced by or obtained from the manufacture of gas by them or the materials used therein and may manufacture produce and sell such articles as can be produced from and by means of the several matters and things aforesaid. A.D. 1910.

Power to purchase lands by agreement.

16. The Council may for the purposes of this Act purchase take and hold (by agreement but not otherwise) in addition to the lands described in the schedule to this Act lands not exceeding in the whole two acres which the Council may from time to time require for the purposes of their gas undertaking but the Council shall not create or permit a nuisance on any such lands and no lands shall be used by the Council for the purpose of manufacturing gas or residual products except the lands described in the schedule to this Act.

Power to sell &c. lands.

17. The Council may sell lease and dispose of any lands acquired by or vested in them under this Act (including the lands described in the schedule to this Act) and not for the time being required for the purposes thereof.

Dwelling-houses for men employed in gas undertaking.

18. The Council may upon any lands for the time being acquired by or leased to them for the purposes of their gas undertaking erect fit up maintain and let houses cottages and buildings for the officers and servants employed by the Council in connection with such undertaking.

Power to supply gas fittings &c. for heating and other purposes and fittings not to be subject to distress.

19.—(1) The Council may sell let for hire fix repair and remove but shall not manufacture engines motors dynamos stoves ranges pipes and other fittings for lighting for motive power for the warming and ventilating of houses and buildings for the cooking of food and for all other purposes for which gas can or may be used and may provide all materials and work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or proceedings in bankruptcy against the person in whose possession the same may be Provided that such fittings are marked or impressed with a sufficient mark or brand indicating the Council as the actual owners thereof.

A.D. 1910.

(3) Provided as follows:—

(A) The Council shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connection therewith (including interest upon moneys borrowed for those purposes and all sums applied to sinking fund for repayment of moneys so borrowed):

(B) Every sum charged by the Council in respect of the provision of such fittings or the fixing repairing or removal thereof shall be separately stated on every demand note delivered by the Council to the consumer:

(C) The total sums expended and received by the Council in connection with the purposes in this section mentioned in each year (including interest and sinking fund) shall be separately shown in the published accounts of the undertaking of the Council for that year.

Engines &c. of Council let on hire though fixed to premises to remain property of Council.

20.—(1) All gas engines apparatus fittings and appliances let by the Council on hire shall notwithstanding that they be fixed or fastened to any part of any such premises in which they may be situate or to the soil under any such premises at all times continue to be the property of and removable by the Council Provided that such gas engines apparatus fittings and appliances have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Council as the actual owners thereof.

(2) Nothing in this section shall affect the amount of assessment for rating of any premises upon which any gas engines apparatus fittings and appliances are or shall be fixed.

Charges for gas supplied by means of prepayment meters.

21.—(1) The Council may demand for any gas supplied through a prepayment meter a not greater charge than for gas supplied to private consumers within their limits of supply through any other kind of meter or by any other method of supply.

(2) The Council shall not charge for the hire of any prepayment meter and fittings to be used therewith any sum other

than a sum of money calculated according to the quantity of gas supplied through such prepayment meter and the maximum sum to be so charged shall be at the rate of tenpence per one thousand cubic feet supplied in manner aforesaid such sum to include the hire of meter and the fittings used therewith or at the rate of one shilling per one thousand cubic feet if such fittings include a cooking stove:

The said charge shall include the providing letting fixing repairing and maintenance of the meters and fittings and the cost of collection and other costs incurred by the Council in connection with the meters and fittings.

(3) The maximum charge for the hire of a prepayment meter without fittings shall be at the rate of ten per centum per annum on the cost of the meter.

(4) For the purpose of this section the expression "prepayment meter" means any meter or appliance by which the quantity of gas supplied is regulated according to the amount of money prepaid therefor.

Power to lay pipes in streets not dedicated to public use.

22. The Council may upon the application of the owner or occupier of any premises within the limits of supply abutting on or being erected in any street or road laid out or made but not dedicated to public use supply such premises with gas and may lay and from time to time take up alter relay or renew in across or along such street or road such pipes as may be requisite or proper for the furnishing of such supply and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when so laid so far as they are respectively applicable for the purposes of this section shall extend and apply mutatis mutandis to and for the purposes thereof.

Limits of price.

23. 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 such price as may be determined by the Board of Trade within one month after the price or consideration for the purchase of the undertaking of the company has been determined in accordance with the provisions of the section of this Act of which the marginal note is "Council to purchase gas undertaking."

Pressure.

24.—(1) All gas supplied by the Council to any consumer of gas shall be supplied at such pressure as to balance a

A.D. 1910.

column of water not less than eight tenths of one inch in height at the main as near as may be to the junction therewith of the service pipe supplying the consumer.

(2) Any gas examiner appointed under the Gasworks Clauses Act 1871 may for the purposes of this Act subject to the terms of his appointment at the testing place or at any public lamp as and when he thinks fit test the pressure at which the gas is supplied The Council shall afford to the examiner all reasonable facilities for making the test.

Quality of gas.

25. The prescribed number of candles shall not be less than fourteen.

Testing place.

26. For the purposes of the Gasworks Clauses Act 1871 the prescribed testing place shall be a testing place which shall be provided by the Council on the lands described in the schedule to this Act before supplying or within three months after beginning to supply gas under the authority of this Act.

Testing for quality.

27.—(1) The quality of the gas supplied by the Council shall with respect to its illuminating power be such as to produce at the testing place when burned at the rate of five cubic feet per hour a light equal in intensity to the light produced by fourteen sperm candles of six to the pound each consuming one hundred and twenty grains of sperm per hour and shall be in all respects in accordance with the provisions of the Gasworks Clauses Act 1871.

(2) For testing the illuminating power of the gas the burner to be used shall be that known as the Metropolitan Argand No. 2 the photometer shall be the bar or table photometer the standard light shall be that supplied by Harcourt's ten-candle pentane lamp and in making the test the burner shall be so used as to obtain from the gas when burned at the rate aforesaid the greatest amount of light Provided that the Board of Trade may on the application of the Council or any five consumers approve the use of any other burner photometer or standard light which may appear to the Board of Trade to be equally or more suitable for the testing.

(3) The Council shall before supplying or within three months after beginning to supply gas under this Act provide all the apparatus required by this Act for the testing of gas and shall at all times keep the same in proper order and repair.

A. 1910.

Savingas to penalties.

28. No penalty shall be incurred by the Council for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was produced by circumstances beyond the control of the Council.

Council may contract with local authority &c. for supply in bulk.

29. The Council may contract with any local authority company or persons supplying gas under parliamentary powers in any district adjacent to the limits of supply of the Council for the supply to them respectively of gas in bulk upon such terms and conditions and for such periods not exceeding in any case seven years from the making of the contract as may be agreed upon but nothing in this section shall authorise the Council to lay any mains or interfere with any street beyond their limits of supply.

Agreements for supply to local authorities for public purposes.

30. Notwithstanding anything contained in this Act it shall be lawful for the Council on the one part and any local or other authority within the limits of supply on the other part to enter into and carry into effect agreements for the supply by the Council to any such authority of gas for public lighting or other public purposes on such terms and conditions as may be agreed upon between the Council and any such authority.

As to construction and placing of pipes &c. between mains and meters.

31. In order to enable the Council to ensure a satisfactory supply of gas to their consumers the following provisions shall have effect:—

(1) The Council may specify the size and material of the pipes with the fittings thereof which are to be laid by the consumer either in the first instance or on the occasion of any renewal between the Council's mains and the meter and (so far as the same are intended to be covered over) on the consumer's premises:

(2) The Council may if they think fit make different specifications for different classes of premises having regard to the probable maximum consumption of gas thereon at any one time:

(3) The specification shall be published twice in some newspaper or once in each of two newspapers circulating within the limits of supply and a copy thereof shall be kept exhibited in the office of the Council:

A.D. 1910.

(4) Every meter to be used in a new building or a building not previously supplied with gas or in connection with a new or substituted pipe laid by the consumer between the main and the consumer's meter shall be placed as near as reasonably practicable to the Council's main but within the outside wall of the building :

(5) When any such pipe or meter as aforesaid has been laid or placed notice thereof shall be given to the Council and the pipe shall not be covered over until after the expiration of twenty-four hours from the service of such notice on the Council Any officer of the Council duly appointed may between nine o'clock in the morning and five o'clock in the afternoon attend and inspect such pipes (with their fittings) and meter and if the officer is not permitted to make the inspection or if the pipes or fittings are not according to the Council's specification or if the meter is not placed as required by this section the Council may refuse to supply gas to the premises until the provisions of this section have been complied with :

(6) Any person to whom the Council refuses a supply of gas under the provisions of this section may appeal to a petty sessional court against such refusal and the court may after hearing the parties and considering any questions as to the reasonableness of the Council's specification make such order as seems to them proper in the circumstances and may order by which of the parties the costs of and incident to the appeal shall be paid.

Power to refuse supply to persons in debt for other premises.

32. If a person requiring a supply of gas from the Council has previously quitted premises at which gas was supplied to him by the Council without paying to them all gas charges or meter rent due from him to the Council they may refuse to furnish to him a supply of gas until he pays the same.

Gas consumers to give notice to Council before removing.

33. At least twenty-four hours' notice in writing shall be given to the Council 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 effect of this enactment shall be endorsed upon every demand note for gas charges payable to the Council. A.D. 1910.

Notice to discontinue supply of gas.

34. A notice to the Council from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at the office of or sent by post to the clerk.

Period of error in defective meters.

35. In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter and the amount of the allowance to be made to or of the surcharge to be made upon the consumer by the Council shall be paid by or to the Council to or by the consumer as the case may be and shall be recoverable in the like manner as gas charges are recoverable by the Council.

Power to lay down and utilise pipes for ancillary purposes.

36. The Council may lay down place repair alter remove and renew mains and pipes within the limits of supply for the purpose of procuring conducting or disposing of any tar or other materials used by them in or resulting from any manufacture of gas or any residual products thereof or for any purpose connected with their business and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid shall so far as applicable extend and apply to the laying down and placing repairing altering or removing and protection of such mains and pipes.

Anti-fluctuators for gas engines.

37. Every consumer of gas supplied by the Council who uses a gas engine shall if required to do so by the Council use an anti-fluctuator and shall at all times at his own expense keep such anti-fluctuator in proper order and in default of his so using or keeping such anti-fluctuator in proper repair the Council may cease to supply gas to such consumer The Council shall have access to and be at liberty to take off remove test inspect and replace any such anti-fluctuator at all reasonable times such

A.D. 1910.

taking off removal testing inspecting and replacing to be done at the expense of the Council if the anti-fluctuator be found in proper order but otherwise at the expense of the consumer.

Difference with railway companies.

38. If any difference arise between the Council and any railway company whose lands or works the Council have power to cross or otherwise interfere with under the authority of this Act as to the mode of laying down repairing altering or enlarging their mains pipes or other works in over or upon such lands or works or the facilities to be afforded for the same such difference shall unless otherwise provided by this Act be settled by an engineer or other fit person to be appointed by the Board of Trade at the request of either party.

Part III.

Financial.

Power to borrow.

39. The Council may independently of any moneys they have already borrowed or which they may be authorised to borrow under the provisions of any other Act borrow at interest on the following securities and for the following purposes any sums not exceeding the following sums (that is to say):—

On the security of the revenue of the gas undertaking and the district fund and district rate—

(1) For the purchase of the undertaking of the company and for defraying the costs and expenses incident to such purchase and to the transfer of such undertaking to the Council (other than the costs of this Act) such sum as may be requisite:

(2) For the extension and improvement of the gas undertaking and for working capital such sums as the Local Government Board may sanction:

And with the sanction of the Local Government Board such further moneys as the Council may require for any of the purposes of this Act or of the gas undertaking of the Council:

On the security of the district fund and district rate—

(3) For paying the costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act as provided by the section of this Act the marginal note whereof is "Costs of Act" the sum necessary and requisite for that purpose.

Period for repayment of borrowed moneys.

40. The Council shall out of the district fund and district rate and notwithstanding any limits placed by any Act upon the amount of such rate which limits are hereby removed for the purposes of this section pay off all moneys borrowed by them under this Act within the respective periods namely:—

(A) As to moneys borrowed for the purposes (1) mentioned in the section of this Act the marginal note whereof is "Power to borrow" within thirty-five years from the date or dates of borrowing the same:

(B) As to moneys borrowed for the purpose (3) mentioned in the said section within five years from the passing of this Act:

And as to moneys borrowed with the approval of the Local Government Board within such period as that Board may in each case prescribe.

Certain regulations of Public Health (Ireland) Act 1878 not to apply.

41. The powers of borrowing money conferred on the Council by this Act shall not be restricted by any of the provisions of the Public Health (Ireland) Act 1878 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act shall not be reckoned.

Mode of repayment of money borrowed.

42. The Council shall pay off all moneys borrowed by them under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund or partly by such instalments and partly by a sinking fund.

As to sinking fund.

43. In order to discharge such of the moneys borrowed under the powers of this Act as are to be repaid by means of a sinking fund the following provisions shall have effect (that is to say):—

The Council shall on or before the first day of April next following the borrowing of any moneys so to be repaid and thenceforward on or before the same day in every year appropriate and set apart out of the fund rate and revenue on the security of which such moneys shall have been borrowed such equal sums as will with the accumulations thereof by way of compound interest at the rate of three pounds per centum per annum be sufficient to

A.D. 1910.

pay off the whole of the said borrowed moneys within the periods prescribed by this Act in respect of any such moneys.

The yearly sums so to be appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust moneys and any mortgage bond debenture debenture stock corporation stock or other security authorised by or under any Act of Parliament passed or to be passed of any municipal corporation in the United Kingdom or of any other local authority as defined by section 34 of the Local Loans Act 1875 or of any urban sanitary authority as defined by the Public Health (Ireland) Act 1878 but no such investments shall be made upon any securities of the Council or on securities transferable by delivery.

The Council may at any time apply the whole or part of such sinking fund in or towards the repayment of the borrowed moneys for the repayment of which such sinking fund was set apart in such order and manner as they may deem proper Provided as follows (that is to say):—

(A) That in such case they pay into such sinking fund in each year afterwards and accumulate as hereinbefore 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 rate per centum per annum on which the annual payments to the sinking fund are based:

(B) That whenever and so long as the securities constituting any sinking fund shall be not less in value at the market price of the day than the principal moneys then outstanding and to be paid off by means of such fund the Council may in lieu of investing the said yearly income apply the same in payment of the interest on such principal and may during such periods discontinue the payment to such sinking fund of the yearly sums required to be so paid thereto:

(c) That if and so often as the interest in any year derived from such investments is less than the income which

would be derived therefrom at the rate per centum per annum on which the equal annual payments to the sinking fund are based such deficiency shall be made good out of the district fund and district rate but if and so often as the said interest in any year exceeds such income the difference between such interest and income shall be applicable in reduction of the sums which would otherwise be required to be paid into the sinking fund.

Power to re-borrow.

44. If having borrowed any money under this Act the Council pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other money received on capital account not being borrowed money they may re-borrow the same and so from time to time Provided that all money so re-borrowed shall be repaid within the period prescribed for the repayment of the money in lieu of which such re-borrowing has been made.

Provisions of Public Health (Ireland) Act 1878 as to mortgages to apply.

45. The following sections of the Public Health (Ireland) Act 1878 shall extend and apply mutatis mutandis to mortgages granted under this Act (that is to say):—

Section 240 (Form of mortgage);

Section 241 (Register of mortgages);

Section 242 (Transfer of mortgages);

Section 243 (Receiver may be appointed in certain cases).

Priority of existing mortgages.

46. Nothing in this Act shall prejudicially affect any charge subsisting at the passing of this Act (by way of mortgage or otherwise) on any undertaking or fund of the Council or on any tolls rates or revenue receivable or leviable by them and every mortgagee or incumbrancer 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 property subject to his charge as if this Act had not been passed and all such charges created before the passing of this Act shall during the subsistence of such charges have priority over any mortgage or charge granted or created under this Act on the same security.

Council not to regard trusts.

47. The Council shall not be bound to 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

A.D. 1910.

but the receipt of the person in whose name any loan or security for loan stands in the register book of the Council shall from time to time be a sufficient discharge to the Council in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Council have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register and the 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 nonapplication of any such money.

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

48. The clerk shall within twenty-one days or at such other time as the Local Government Board may by order direct after the expiration of each local financial 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 default in making such return the clerk shall be liable to a penalty not exceeding forty shillings a day during the continuance of the default 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 (Ireland) Act 1878 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appear to the Local Government Board by such return or otherwise that the 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 by the Council 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 from the High Court.

Protection of lender from inquiry.

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

Power to invest all sinking funds in statutory securities.

50. When under the provisions of any Act of Parliament or of any order confirmed by or having the effect of an Act of Parliament whether passed confirmed or made before or after the passing of this Act the Council are empowered or required to form a sinking fund for the payment off of money borrowed or payable by them they may (in addition to any other powers for the time being vested in them) invest such sinking fund and the interest on the investments of such sinking fund in statutory securities.

Application of revenue of gas undertaking.

51. The Council shall keep accounts in respect of their gas undertaking separate from all their other accounts (distinguishing therein capital from revenue) and shall apply all money received by them in respect of the undertaking except money borrowed and money derived from the sale of surplus lands or other moneys received on capital account as follows (that is to say):—

(First) In payment of the working and establishment expenses and cost of maintenance of their gas undertaking:

(Secondly) In payment of the interest on moneys borrowed by the Council for the purposes of their gas undertaking:

(Thirdly) In providing the requisite appropriations instalments or sinking fund payments in respect of moneys borrowed by the Council for the purposes of their gas undertaking:

(Fourthly) In extending improving and constructing (if the Council think fit) any works for the purposes of their gas undertaking:

(Fifthly) In providing a reserve fund (if the Council think fit) by setting aside such money as they think reasonable and investing the same and the resulting income thereof in statutory securities and accumulating the same at compound interest until the fund so formed amounts to

A.D. 1910.

one fifth of the aggregate capital expenditure for the time being upon the gas undertaking of the Council which fund shall be applicable to answer any deficiency at any time happening in the income of the Council from their gas undertaking or to meet any extraordinary claim or demand at any time arising against the Council in respect of that undertaking and so that if that fund be at any time reduced it may thereafter be again restored to the limit prescribed by this section and so from time to time as often as such reduction happens Provided that resort may be had to the reserve fund under the foregoing provisions although such fund may not at the time have reached or may have been reduced below the full amount of one fifth of the said aggregate capital expenditure:

And the Council shall carry to the district fund so much of any balance remaining in any year of the income of their gas undertaking (including the interest on the reserve fund when such fund amounts to one fifth of the said aggregate capital expenditure) as may in the opinion of the Council not be required for carrying on improving or extending their gas undertaking and paying the current expenses connected therewith.

As to deficiency in receipts.

52. Any deficiency in the revenue of the Council on account of their gas undertaking shall be made good out of the general district rate or rates made next after each such deficiency is ascertained.

Scheme for fixing equated periods.

53.—(1) The Council may at any time hereafter and from time to time make a scheme for prescribing one or more uniform periods within which all or any loans contracted by them under statutory borrowing powers (including if they think fit any loans already equated) shall be discharged and such scheme may extend or vary the periods within which such loans shall be discharged and may make provision in regard to all matters incidental thereto.

(2) No scheme made by the Council under this section shall have any force or effect until confirmed by the Local Government Board who may by order confirm the same with or without modification and when so confirmed the scheme shall notwithstanding any enactment order or sanction to the contrary have full force and effect and such scheme shall be deemed to be within the powers of this Act Provided that nothing in any scheme made under

this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder of any stock existing at that time except with the consent of such mortgagee or holder.

(3) The Council may with the sanction of the Local Government Board and on the security of the revenues funds or rates respectively on the security of which the moneys included in the scheme were respectively authorised to be borrowed borrow such sums as may be necessary for the purpose of giving effect to such scheme and for compensating the holders of securities of the Council for their consent thereto.

(4) Any scheme confirmed under this Act may be altered extended amended or annulled by any other scheme prepared and confirmed in like manner as the original scheme.

Application of money borrowed.

54. Money borrowed by the Council under this Act shall be applied only for the purposes of this Act for which it is authorised to be borrowed and to which capital is properly applicable.

Expenses of execution of Act.

55. All expenses incurred by the Council in carrying into execution the provisions of this Act and not otherwise expressly provided for shall be defrayed as expenses under the Public Health (Ireland) Act 1878.

Inquiries by Local Government Board.

56.—(1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them or the giving of any consents under this Act and the inspectors of the Local Government Board shall for the purposes of any such inquiries have all such powers as inspectors of the Local Government Board have for the purposes of inquiries directed by that Board under the Public Health (Ireland) Act 1878.

(2) The Council shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries referred to in this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

A.D. 1910.

Part IV.

Miscellaneous.

Recovery of penalties &c.

57. Offences against this Act and penalties imposed or recoverable under this Act or by any byelaws made in pursuance thereof may be prosecuted and recovered in a summary manner as provided for by sections 249 and 250 of the Public Health (Ireland) Act 1878.

Penalties to be paid to treasurer.

58. All penalties recovered under this Act or under any byelaw thereunder shall except in case of penalties recovered against the Council be paid to the treasurer and be by him carried to the credit of the district fund.

Informations by whom to be laid.

59. Save as herein expressly provided all informations and complaints under or for the breach of any of the provisions of this Act or of any byelaws made thereunder may be laid and made by an officer of the Council authorised in that behalf or by the clerk.

Authentication and service of notices &c.

60. In the case of any notice or demand under this Act requiring authentication by the Council the signature of the clerk or other duly authorised officer of the Council shall be sufficient authentication Notices orders and any other documents required or authorised to be served under this Act may be served in the same manner as notices under the Public Health (Ireland) Act 1878 are by section 267 of that Act authorised to be served Provided always that in the case of any company any such notice or document shall be delivered or sent by post addressed to the secretary of the company at their principal office or place of business.

Recovery of demands.

61. Proceedings for the recovery of any demand made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

Judges &c. not disqualified.

62. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

A.D. 1910.

Costs of Act.

63. The costs charges and expenses preliminary to and of and incidental to the preparing obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons including the costs incurred by the Council in or with the object of complying with the provisions of the Borough Funds (Ireland) Act 1888 with respect to the Bill for this Act shall be paid by the Council and may be paid in the first instance out of any moneys in their hands and eventually out of moneys borrowed under the authority of this Act for that purpose and the Council shall by resolution determine the proportions in which the funds on the security of which such moneys are borrowed shall contribute in respect of such loans.

A.D. 1910.

The SCHEDULE referred to in the foregoing Act.

Lands to be used for the Manufacture of Gas &c.

Two pieces or parcels of land belonging or reputed to belong respectively to Katherine Louisa MacEwan Jephson Norreys and Richard Longfield and leased by them to the company situate in the parish of Mallow in the urban district of Mallow in the county of Cork east riding containing by admeasurement 1 rood 24 poles or thereabouts and forming the site of the existing gasworks of the company which said two pieces of land are intercepted by a passage and bounded on the north-east partly by land belonging or reputed to belong to the said Katherine Louisa MacEwan Jephson Norreys and partly by a piece of land in front of Edward Drake's and Hassett's houses on the north-west by the canal and Spa Walk on the south-east partly by a piece of land belonging or reputed to belong to the said Katherine Louisa MacEwan Jephson Norreys and partly by Gallowshill Lane or St. Joseph's Road and on the south-west partly by a house in St. Joseph's Road in the occupation of Timothy Finnigan and partly by a house in Spa Walk in the occupation of William Donegan.

Printed by Eyre and Spottiswoode, Ltd.,
FOR
Rowland Bailey, Esq., M.V.O., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
WYMAN and SONS, Ltd., Fetter Lane, E.C.; or
OLIVER and BOYD, Tweeddale Court, Edinburgh; or
E. PONSONBY, Ltd., 116, Grafton Street, Dublin.