



CHAPTER xlv.

An Act to authorise the Chesterfield Gas and Water Board to make new waterworks and extend their gasworks and for other purposes. [24th June 1904.] A.D. 1904.

WHEREAS the Chesterfield Gas and Water Board (herein after called "the Board") were by the Chesterfield Gas and Water Act 1895 (hereinafter called "the Act of 1895") incorporated with perpetual succession and a common seal to take over the undertaking of the Chesterfield Waterworks and Gaslight Company :

And whereas under the powers of the Act of 1895 the Board have taken over the undertaking of the said Company and are now the authority for the supply of gas and water and are supplying gas and water within the limits of supply of the said Act :

And whereas the Board were by the Act of 1895 as amended by the Local Government Board's Provisional Orders Confirmation (No. 3) Act 1900 authorised to borrow the following moneys (that is to say) :—

- (A) For the purpose of paying the price of the undertaking of the Company and the taxed costs and expenses of and incidental to the transfer thereof (including all costs and expenses of the arbitration not otherwise payable) the sums necessary for those purposes ;
- (B) For the purpose of paying off or redeeming the mortgage debt of the Company any sum not exceeding the amount thereof at the date of transfer ;
- (C) For the purposes of the gas undertaking to which capital is properly applicable any sum sanctioned by the Local Government Board not exceeding eighty thousand pounds ;

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(D) For the purposes of the water undertaking to which capital is properly applicable any sum sanctioned by the Local Government Board not exceeding fifteen thousand pounds ;

(E) To pay the taxed costs of the Act of 1895 the sum necessary for that purpose :

And whereas the Board have borrowed for the purposes afore-mentioned as follows (that is to say) :—

	£	s.	d.
For purposes (A) and (B) - - -	251,766	2	1
For purpose (C) - - -	45,204	0	0
For purpose (D) - - -	1,862	0	0
For purpose (E) - - -	1,768	15	7

And whereas on the twenty-ninth day of September one thousand nine hundred and three thirty-four thousand three hundred and eighty-two pounds of the said sums had been paid off and the outstanding indebtedness of the Board amounted to two hundred and sixty-six thousand two hundred and eighteen pounds fifteen shillings and eightpence :

And whereas the Club Mill Reservoir authorised by the Chesterfield Waterworks and Gaslight Company's Act 1855 has become defective and is not now available for the storage of water :

And whereas the demand for water and gas within the area of supply of the Board has increased and continues to increase and it is necessary that the Board should purchase additional lands and construct a new reservoir and works connected therewith and extend their gasworks :

And whereas it is expedient that the Board should be authorised to acquire the necessary land and execute the necessary works and borrow the money required for the same and that provision should be made for the proper and efficient filtration of the water supplied by the Board for domestic purposes :

And whereas estimates for the purchase of land for and the execution of the various works by this Act authorised have been prepared by the Board and are as follows :—

For waterworks (including land) - - - £42,000

For gasworks (including land) exclusive of
any moneys which the Board now are or
may be authorised to borrow for the pur-
poses of the gas undertaking the further
sum of - - - - -

£6,000

And whereas the several works mentioned in such estimates respectively are permanent works and it is expedient that the cost thereof should be spread over a term of years : A.D. 1904.

And whereas it is expedient that the other provisions in this Act should be made :

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

And whereas plans and sections showing the lines and levels of the works authorised by this Act and plans of the lands by this Act authorised to be acquired and a book of reference containing the names of the owners or reputed owners and lessees or reputed lessees and occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Derby which plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference :

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) :—

PART I.

PRELIMINARY.

1. This Act may be cited as the Chesterfield Gas and Water Board Act 1904. Short title.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Water.

Part IV.—Gas.

Part V.—Financial and Miscellaneous.

Act divided
into parts.

3. The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845) the Waterworks Clauses Act 1847 (except 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 section 83 relating to accounts) and for the purpose of incorporation with this Act section 44 of the said Act shall be read and have effect as if the Incorporation
of Acts.

A.D. 1904. words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted therefrom the Waterworks Clauses Act 1863 the Gasworks Clauses Act 1847 provided that section 13 of that Act shall be read as if the words "or any premises" were inserted after the words "private building" the Gasworks Clauses Act 1871 and the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway (but such provisions shall only apply to the reservoir and filter beds by this Act authorised to be constructed and in reading such provisions "the Company" shall mean the Board and "the railway" shall mean the reservoir and filter beds by this Act authorised) so far as the same are applicable for the purposes of and not varied by or inconsistent with this Act are hereby incorporated with, and form part of this Act.

Interpretation.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith or by the Act of 1895 have the same respective meanings unless there be something in the subject or context repugnant to such construction :

"The Act of 1895" means the Chesterfield Gas and Water Board Act 1895 ;

"The undertaking" means and includes the whole of the gas and water undertaking of the Board ;

"The gas undertaking" and "the water undertaking" mean so much of the undertaking of the Board as relates to the supply of gas and water respectively.

PART II.

LANDS.

Power to take lands by compulsion.

5. Subject to the provisions of this Act the Board may enter upon take and use all or any part of the lands delineated on the deposited plans and described in the deposited book of reference which they require for the purposes of the undertaking and may stop up and divert all such roads and ways in on and over the said lands as are shown on the deposited plans so to be stopped up or diverted :

Provided that no lands acquired by the Board under the powers of this Act shall be used by the Board for the manufacture or storage of gas or residual products except the lands described in the First Schedule to this Act.

6. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Board after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices acting for the county in which such lands are situate for the correction thereof and if it appear to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited with the clerk of the peace for the said county and a duplicate thereof shall also be deposited with the town clerk of the borough of Chesterfield or the clerk to the urban district council of Brampton according as the lands affected thereby are situate in the said borough or the said urban district and such certificate and duplicate respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Board to take the lands and execute the works in accordance with such certificate.

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—
Correction of errors &c. in deposited plans and book of reference.

7. The powers of the Board for the compulsory purchase of lands under this Act shall not be exercised after the expiration of five years from the passing of this Act.

Period for compulsory purchase of lands.

8. 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 Board any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in 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.

Persons under disability may grant easements &c.

9. Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Board may retain hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of in such manner and for

Power to retain sell &c. lands.

A.D. 1904. such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest therein which may have been or may be acquired by them under the Act of 1895 or under this Act and which are not required by them for the purposes of the undertaking and may sell exchange or dispose of any rents reserved on the sale exchange lease or other disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

Owners may be required to sell parts only of certain lands and buildings.

10. And whereas in the construction of the works by this Act authorised or otherwise in the exercise by the Board of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Board and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect :—

- (1) The owner of and persons interested in any of the properties whereof the whole or part is described in the Second Schedule to this Act and whereof a portion only is required for the purposes of the Board or each or any of them are herein-after included in the term "the owner" and the said properties are herein-after referred to as "the scheduled properties" :
- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Board that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Board such portion only without the Board being obliged or compellable to purchase the whole the Board paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise :
- (3) If within such twenty-one days the owner shall by notice in writing to the Board allege that such portion

cannot be so severed the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted (herein-after referred to as "the tribunal") shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Board have compulsory powers of purchase) can be so severed :

- (4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Board the portion which the tribunal shall have determined to be so severable without the Board being obliged or compellable to purchase the whole the Board paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal :
- (5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the arbitration or inquiry shall be borne and paid by the owner :
- (6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Board may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice :

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(7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Board in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

Stopping up
and diversion
of roads.

11. Where this Act authorises the stopping up and diversion of an existing road or way such stopping up shall not take place until two justices shall have certified that the new road or way has been completed to their satisfaction and is open for public use.

Before applying to the justices for their certificate the Board shall give to the road authority of the district in which the existing road or way is situate seven days' notice in writing of their intention to apply for the same.

As from the date of the said certificate all rights of way over or along the existing road or way shall be extinguished and the Board may appropriate and use for the purposes of their undertaking the site of the portion of the road or way stopped up as far as the same is bounded on both sides by lands of the Board :

Provided that the Board shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

PART III.

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WATER.

12. Subject to the provisions of this Act the Board may wholly in the parish and urban district of Brampton in the county of Derby and in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference make and maintain the following works shown on the deposited plans and sections (that is to say) :-

Power to
make water-
works and
divert water.

- (1) A storage reservoir (to be called the Middle Linacre reservoir) to be formed by means of an embankment or retaining wall across the Linacre Brook ;
- (2) Filter beds (to be called Upper Linacre filter beds and Middle Linacre filter beds) ;
- (3) A conduit or line of pipes consisting of one or more lines of pipes (to be called Line of Pipes No. 1) commencing at a point in the Linacre Brook 40 yards or thereabouts measured in a westerly direction from the sluice at the western extremity of the Lower Linacre reservoir and terminating at or near the north-west side of the Middle Linacre filter beds ;
- (4) A conduit or line of pipes consisting of one or more lines of pipes (to be called Line of Pipes No. 2) commencing in the basin at the foot of the embankment of the Upper Linacre reservoir and terminating at or near the north-west side of the Upper Linacre filter beds ;
- (5) A conduit or line of pipes consisting of one or more lines of pipes (to be called Line of Pipes No. 3) commencing in the south-east side of the Upper Linacre filter beds and terminating in the existing line of pipes leading to Chesterfield ;
- (6) A conduit or line of pipes consisting of one or more lines of pipes (to be called Line of Pipes No. 4) commencing in the south-east side of the Middle Linacre filter beds and terminating in the existing line of pipes leading to Chesterfield ;
- (7) A conduit or line of pipes consisting of one or more lines of pipes (to be called Aqueduct No. 5) commencing in the stream in Bank Wood and terminating in the Middle Linacre reservoir at or near the south end of the intended embankment ;

A.D. 1904. and may divert and impound into the reservoir and works by this Act authorised any water which they are now authorised to take But nothing in this Act shall authorise the Board to take any water which they are not now authorised to take.

Power to
make subsi-
diary works.

13. The Board in addition to the foregoing works may upon any lands for the time being belonging to them for the purpose of and in connexion with their water undertaking make and maintain all such cuts channels catch-waters tunnels adits pipes conduits culverts drains sluices bye-washes shafts wells bores water-towers overflows waste-water channels gauges filter beds tanks banks walls roads and footpaths bridges embankments piers approaches telegraphs telephones and other means of electric communication engines machinery and appliances as may be necessary or convenient in connexion with or subsidiary to the before-mentioned works or any or either of them but nothing in this section shall exonerate the Board from any action indictment or other proceedings for nuisance in the event of any nuisance being caused or permitted by them :

Provided that no telegraph telephone or other means of electric communication constructed under the authority of this Act shall be used for the purpose of transmitting telegrams in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Limits of
deviation.

14. In the construction of the works authorised by this part of this Act the Board may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards provided as follows (that is to say) :—

The Board shall not construct any embankment or wall of such reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in respect of the corresponding embankment or wall and three feet in addition ;

Except for the purposes of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

15. If the storage reservoir and filter beds authorised by this Act are not completed within six years from the passing of this Act the powers by this Act granted for the making thereof and otherwise in relation thereto shall cease except as to so much thereof as is then completed. Provided always that subject to the provisions of this Act the Board may at any time after the expiration of the said period lay down additional mains aqueducts lines of pipes and other works and alter enlarge extend and renew the same as they may think expedient for the purposes of their water undertaking.

A.D. 1904,
Period for
completion of
waterworks.

16. So soon as the filter beds by this Act authorised are finished and ready for use and in any case from and after the termination of the period by this Act fixed for the completion of the same the Board shall properly and efficiently filter all water for the time being supplied by them for domestic purposes.

Filtration of
water.

17. The waterworks by this Act authorised to be constructed shall form part of the water undertaking of the Board and the Board may use the water diverted and impounded into the same for the purpose of supplying water under the Act of 1895 and this Act.

New water-
works to
be part of
Board's
water under-
taking.

PART IV.

GAS.

18. Subject to the provisions of this Act the Board may upon the lands described in the First Schedule to this Act erect maintain alter improve enlarge extend and renew or discontinue gasworks retorts gasometers receivers drains sewers mains pipes meters lamps lamp posts burners stopcocks machinery and other works and apparatus and conveniences and may do all such acts as they may think proper for making storing and supplying gas within the limits of the Act of 1895 and may make store and supply gas accordingly and may manufacture sell provide supply and deal in coke tar and all other products or residuum of any materials employed in or resulting from the manufacture of gas.

Power to
construct and
maintain gas-
works.

19. The gasworks by this Act authorised to be constructed shall form part of the gas undertaking of the Board and the Board may use the same for the purpose of supplying gas under the Act of 1895 and this Act.

New gas-
works to
be part of
Board's gas
undertaking.

20. Notwithstanding anything contained in section 24 of the Chesterfield Waterworks and Gaslight Company's Act 1876 after the passing of this Act the prescribed number of candles shall be fourteen.

Quality of
gas.

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PART V.

FINANCIAL AND MISCELLANEOUS.

Power to
borrow and
period for re-
payment.

21.—(1) The Board may in addition to any moneys which they are now authorised to borrow or which they may be authorised to borrow under any public general Act borrow at interest and upon the securities defined in section 46 subsection (1) of the Act of 1895 for the purposes under-mentioned the following sums (that is to say):—

- (A) For the reservoir and waterworks (including land) by this Act authorised any sum not exceeding forty-two thousand pounds :
- (B) For the extension of gasworks (including land) by this Act authorised any sum not exceeding six thousand pounds :
- (C) For the general purposes of their water undertaking and gas undertaking respectively such further sums as the Local Government Board may sanction :
- (D) To pay the taxed costs of this Act the sum necessary for that purpose.

(2) Moneys borrowed under this section shall be repaid within the following respective periods from the date of borrowing (that is to say):—

Money borrowed for purpose (A) within sixty years from the time or times of borrowing ;

Money borrowed for purpose (B) within forty years from the time or times of borrowing ;

Money borrowed for purpose (D) within five years from the passing of this Act ;

Moneys borrowed with the sanction of the Local Government Board within such respective periods as that Board may prescribe.

The above-mentioned respective periods are herein-after referred to as “the prescribed periods” and such repayment shall be made either by equal annual instalments of principal or of principal and interest combined or by means of a sinking fund appropriated for that purpose and with the accumulations thereof (if any) from time to time applied for that purpose.

22. The under-mentioned sections and parts of sections of the Act of 1895 shall apply to the works and powers by this Act authorised and conferred as if the same were in terms re-enacted herein (that is to say):—

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Sections of
Act of 1895
to apply.

Section 36 Application of moneys arising from sale &c. of land.

Section 46 Subsection (2) Application of borrowed money. Subsection (4) Re-borrowing.

Section 47 Board may borrow under Local Loans Act 1875.

Section 48 As to mortgages of Board.

Section 49 Regulations as to sinking fund.

Section 50 Protection of lender from inquiry.

Section 51 Annual return to Local Government Board.

Section 60 Justices not disqualified.

23.—(1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them or the giving of any consents under this Act and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875.

Inquiries
by Local
Government
Board.

(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.

24. The costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Board in the first instance out of the revenue of their water undertaking and gas undertaking or either of them but ultimately out of moneys borrowed under the powers of this Act.

Costs of Act.

A.D. 1904.

The SCHEDULES referred to in the foregoing Act.

FIRST SCHEDULE.LANDS FOR THE CONSTRUCTION AND MAINTENANCE OF GASWORKS
AND THE MANUFACTURE OF GAS.

The piece of land containing 2 acres 2 roods 17 perches or thereabouts in the parish and borough of Chesterfield in the county of Derby situate on the north and west sides of the existing gasworks of the Chesterfield Gas and Water Board part thereof being the southernmost portion of the field No. 210 on the $\frac{1}{2500}$ Ordnance map second edition 1898 of the parish of Chesterfield the remainder thereof being the Allotment Gardens No. 211 and the southernmost portion of the Allotment Gardens No. 207 on the said Ordnance map which said piece of land is bounded on the north partly by other part of the said field No. 210 partly by other portion of the said Allotment Gardens No. 207 and the remainder by R. W. Proctor and Sons' nursery or garden ground No. 205 on the said Ordnance map on the south by the said gasworks on the east partly by Alexandra Road and partly by house property belonging to Amy Warner and on the west by the Holme Brook.

SECOND SCHEDULE.

PROPERTIES OF WHICH PARTS ONLY MAY BE TAKEN.

No. on deposited Plan.	Parish or Borough.	Description of Property.
13	Parish of Brampton - - -	Part field and outbuilding.
1	Parish and borough of Chesterfield -	Part field and wall.

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