



CHAPTER lxxxiii.

An Act to provide for the transfer of the undertaking of the Ashborne and District Gas Company to the Ashborne Urban District Council and to confer further powers on the said Council with respect to the supply of gas and for other purposes. [7th August 1912.] A.D. 1912.

WHEREAS the district of Ashborne in the county of Derby is an urban district within the meaning of the Local Government Act 1894 and is under the management and control of the Ashborne Urban District Council which district and Council are in this Act respectively called "the district" and "the Council":

And whereas by the Ashborne and District Gas Act 1911 the Ashborne and District Gas Company (herein-after referred to as "the company") were incorporated and the undertaking of the Ashborne Gas Company Limited was vested in the company and the said limited company was from and after the passing of that Act dissolved: 1 & 2 Geo. 5.
c. liii.

And whereas by the Act of 1911 the limits within which the company are authorised to supply gas are defined as being the urban district of Ashborne and the parishes of Clifton and Compton Mappleton Offcote and Underwood and Sturston in the county of Derby and the parishes of Mayfield and Okeover in the county of Stafford:

And whereas provisions are contained in the Act of 1911 with respect to the purchase by the Council of the undertaking of the company and it was provided among other things that if the Council should introduce a Bill into Parliament in the then next session for an Act to empower them to purchase the

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(Gas) Act, 1912.

A.D. 1912. — undertaking of the company the company should not oppose such Bill except in so far as they might deem necessary in order to secure the insertion therein of provisions to protect their interests with respect to such purchase:

And whereas it is expedient that the undertaking of the company should be transferred to and vested in the Council in manner provided by this Act and that powers should be conferred upon the Council as herein-after provided:

And whereas it is expedient that the Council be authorised to borrow money for the purchase of such undertaking and for the other purposes of this Act:

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

And whereas an absolute majority of the whole number of the Council at a meeting held on the seventeenth day of October one thousand nine hundred and eleven after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the "Ashbourne Telegraph" a local newspaper circulating in the district such notice being in addition to the ordinary notices required for summoning such meeting resolved "that the Council do proceed under the provisions of section 77 of the Ashborne and District Gas Act 1911 to introduce a Bill into Parliament and promote the same in the next session of Parliament for an Act to empower the Council to purchase the undertaking of the Ashborne and District Gas Company":

And whereas the said resolution was published twice in the said newspaper 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 January one thousand nine hundred and twelve being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule to the Borough Funds Act 1903 have been observed:

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. 1912.

PRELIMINARY.

1. This Act may be cited as the Ashborne Urban District Council (Gas) Act 1912.

Short title.

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

Incorporation of Acts.

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

The Gasworks Clauses Act 1847 (except the provisions thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit and with respect to the yearly receipt and expenditure of the undertakers) Provided that section 13 of that Act shall be read as if the words "or any premises" were inserted after the words "private building"; and

The Gasworks Clauses Act 1871 (except sections 7 8 and 35 thereof).

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

Interpretation.

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

"The district" means the urban district of Ashborne;

"The company" means the Ashborne and District Gas Company;

"The Act of 1911" means the Ashborne and District Gas Act 1911;

A.D. 1912.

“The undertaking of the company” includes all the gas-works engines mains pipes and machinery lands and buildings plant fixed and movable and all other the real and personal property assets and effects of whatever nature 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 premises comprising the eight cottages and gardens in Mayfield Road belonging to the company and all moneys due or accruing due to the company the cash balances (other than consumers’ deposits) in the company’s hands or in those of their bankers or agents securities for money and all sums standing to the credit of their reserve fund and also except movable stock-in-trade gas coal and other stores and the books and papers relating exclusively to the shareholders in and the constitution of the company ;

“The gas undertaking” means the gas undertaking of the Council under this Act ;

“The district fund” and “the general district rate” mean respectively the district fund and the general district rate of the district ;

“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 or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council ;

“Statutory borrowing power” means any power whether or not coupled with a duty of borrowing or continuing on loan or re-borrowing money or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any Act of Parliament

public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any Government department made or given or to be made or given by authority of any Act of Parliament passed or to be passed. A.D. 1912.

PURCHASE OF UNDERTAKING OF GAS COMPANY.

4.—(1) Within three months after the passing of this Act the Council shall give to the company notice in writing of their intention to purchase the undertaking of the company and thereupon the company shall sell and transfer and the Council shall purchase and acquire the undertaking of the company discharged from their then existing mortgages (if any) or other financial obligations and liabilities for such price or consideration being a sum in gross and on such terms and conditions as may be agreed upon between the company and the Council or as failing such agreement shall be determined by arbitration in accordance with the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement and in the construction of the said provisions the expression "the promoters of the undertaking" shall mean the Council and the expression "lands" shall mean the undertaking of the company Provided that any arbitrator or umpire (as the case may be) shall not in assessing the amount to be paid by the Council to the company have regard to the fact that the company had obtained the Act of 1911 but shall fix such amount as if that Act had not been passed. Transfer of undertaking of company to Council.

(2) In addition to the sum to be paid by the Council to the company under the foregoing provisions of this section the Council shall also pay to the company (a) the taxed costs charges and expenses incurred by the company preliminary to and of and incident to the promotion of and obtaining the Act of 1911 including all stamp duties and fees payable under the provisions of the Stamp Act 1891 the Finance Act 1895 and the Finance Act 1896 (b) the costs of the company of and incident to the transfer of the undertaking of the company and the winding up of the company (c) the costs incurred by the company in obtaining clauses and amendments in the Bill for this Act (d) the actual amount expended by the company for the purpose of supplying with gas the premises of Nestlé and

A.D. 1912. Anglo-Swiss Condensed Milk Company and the premises of the Children's Home also the actual amount expended by them in complying with the provisions of section 57 of the Act of 1911 and also the actual amount expended by them with the consent of the Council in extending their mains to supply newly built property previous to the passing of this Act and on capital account in pursuance of the provisions of the section of this Act the marginal note of which is "Maintenance of undertaking by company till transfer."

(3) The Council shall purchase and take over all movable stock-in-trade gas coal and other stores belonging to the company at the transfer at such price failing agreement as may be settled by a valuer to be agreed upon between the parties or failing agreement to be nominated by the President of the Institution of Civil Engineers upon the application of either party.

(4) The Council shall also pay compensation to any officers and servants (except servants in receipt of weekly wages) in the regular employment of the company who shall not be retained by the Council in the same or similar office or employment and at the salary and on the terms and conditions in at and on which they respectively were employed by the Ashborne Gas Company Limited on the first day of April one thousand nine hundred and eleven in respect of any loss of office or diminution of salary (which expression shall in the case of the manager of the company be deemed to include emoluments) by reason of the transfer of the undertaking of the company to the Council the amount of such compensation in default of agreement to be determined by arbitration as aforesaid and no officer or servant who has been in the employment of the company for ten years or upwards shall lose his right to compensation as aforesaid by reason of his declining to continue in the service of the Council.

(5) The Council shall pay the purchase money to the company on such day as may be agreed between the company and the Council or failing agreement on the twenty-fifth day of March or the twenty-fourth day of June or the twenty-ninth day of September or the twenty-fourth day of December which shall first happen after the determination by agreement in writing or by the award of the arbitrator or umpire of the amount of the purchase money and on such payment the undertaking of the company shall by virtue of this Act become

and shall thenceforth be transferred to and vested in and belong to and be exerciseable by 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 five pounds per centum per annum from the date so agreed or fixed until payment. A.D. 1912.

5. The receipt in writing of three directors of the company for money paid to the company by the Council shall effectually discharge the Council from the sum which in such receipt shall be acknowledged to have been received and from being bound to see to the application thereof and from being answerable or accountable for the loss misapplication or non-application thereof Provided that if from any cause the Council are unable to obtain such receipt they may pay the money into the Bank of England in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Council by the cashier of the said Bank for the money which shall have the same effect as the receipt of three directors of the company. Receipt for purchase money.

6. If at the date of the transfer any action arbitration or proceeding or any cause of action arbitration or proceeding is pending or existing against or in favour of the company the same shall not abate or be discontinued or in any wise prejudicially affected by reason of the transfer or of anything in this Act but the same (if against or in favour of the company) may be continued prosecuted and enforced against or in favour of the Council as and when it might have been continued prosecuted and enforced against or in favour of the company if this Act had not been passed but not further or otherwise. Pending actions.

7. All agreements contracts conveyances deeds and other instruments affecting the company and in force at the time of the transfer shall after 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. Contracts of company to be binding on Council.

8.—(1) From and after the transfer the company shall subsist only for the purpose of paying their debts and liabilities and of receiving and recovering the sums payable to them as provided by this Act and distributing the same and the purchase Winding up of company.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(*Gas*) Act, 1912.

A.D. 1912. money and other moneys payable to the company in accordance with the provisions of this Act and for realising the remainder of the property and assets of the company and for winding up the affairs of the company and carrying into effect the purposes of this Act so far as they relate to the company and the directors of the company who are in office at the date of transfer and the survivors or survivor of them shall continue in office without re-election and they or a majority of them shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes of this section.

If the number of directors of the company be reduced by death resignation or otherwise below three before the completion of such winding up the continuing directors shall from time to time choose a shareholder or shareholders of the company to fill the vacancy or vacancies so caused.

(2) Forthwith after the transfer the directors of the company shall proceed to wind up the affairs of the company and after payment of the debts and liabilities of the company shall pay and distribute their net moneys rateably to and among the several persons who at the transfer were the registered holders of shares in the capital of the company or their respective executors administrators and assigns according to the holding of each such shareholder and in payment of such compensation or bonus or bonuses (if any) as the company decide to grant to any directors officers and servants of the company and for the purpose of such distribution the several persons whose names shall appear in the books of the company at the transfer to be the proprietors of shares therein shall unless the contrary be proved to the satisfaction of the directors be considered to be shareholders of the company and the receipt in writing of such persons or of their executors or administrators or of the committee or guardian of the estate of any such person who shall be an idiot lunatic or minor shall be an effectual discharge to the company and the directors thereof for the money therein expressed to be received and shall exonerate them from any obligation affecting the shares or interest in respect whereof the money is paid.

(3) When the directors of the company are for six months after the transfer unable after diligent inquiry to ascertain the person to whom any money ought to be paid or who can give an effectual receipt for the same they may pay the same into

the High Court or if not exceeding five hundred pounds into the County Court of Derbyshire holden at Ashborne under any Act for the time being in force for the relief of trustees and every such payment shall effectually discharge the company and the directors thereof from all further liability with respect to the money so paid in. A.D. 1912.

(4) The company shall subject to the provisions of this Act be wound up under and in accordance with the provisions of and in the same manner and with the same incidents as if the company were a company registered under the Companies (Consolidation) Act 1908 and had on the transfer duly passed a special resolution requiring the company to be wound up voluntarily and for the purposes of such winding up the company shall from and after the passing of this Act be deemed to be registered in England under the said Act and for the purpose of calling and holding meetings and passing resolutions and other matters incident to such winding up resolutions of meetings of the company convened and held in pursuance of and in accordance with the provisions contained in the Act of 1911 may and shall take effect as resolutions of a company duly registered.

(5) After the transfer and until the company shall be finally wound up and dissolved the company shall be entitled to retain the directors' minute books the register of shareholders and other books relating solely to the holders of shares in and to the constitution of the company and shall have access at all reasonable times to the other books documents and accounts relating to the transferred undertaking for the purpose of making up the accounts of the company to the date of the transfer and for all other reasonable purposes in relation to the winding up of the company and upon the winding up of the company the said books retained by them (other than the directors' minute books and such of the books of the company as relate exclusively to the shareholders in and the members and constitution of the company) shall be handed over to the Council.

(6) Upon the purposes specified in this section being fulfilled the company shall ipso facto be dissolved.

9. The company shall pay and discharge all outgoings and liabilities of every kind properly chargeable to revenue up to the transfer and shall be entitled to all rents profits and other receipts on revenue account from the undertaking up to

Company to pay outgoings and to be entitled to rents &c.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(Gas) Act, 1912.

A.D. 1912. the transfer and when necessary for the purpose of giving effect to this enactment such outgoings rents profits and receipts shall be apportioned between the company and the Council and any such rents profits or sums of money attributable to the period prior to the transfer but not due or payable at the time of the transfer may when due be recovered by the Council who shall pay to the company the proportion of such rents profits and sums of money due to them up to the time of the transfer.

Books &c. to remain evidence.

10. All books and documents in the possession of the company 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 or the like matter for or against the Council.

Maintenance of undertaking by company till transfer.

11. Until 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 create or issue any further capital or expend any money on capital account or make or enter into any new 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.

Repeal of Act of 1911 with exception of certain provisions.

12. Subject to the provisions of this Act as from the transfer the Act of 1911 with the exception of the sections of that Act and the schedule thereto which are referred to in the schedule to this Act shall be and the same is hereby repealed and the said sections of the Act of 1911 shall apply and have effect as if the expression "the Council" were substituted for the expression "the company" wherever the last-mentioned expression occurs in those sections.

SUPPLY OF GAS.

Gas limits.

13. The limits of the Council for the supply of gas shall be and include the urban district of Ashborne and the parishes of Clifton and Compton Mappleton Offcote and Underwood and Sturston in the county of Derby and the parishes of Mayfield and Okeover in the county of Stafford.

Provision for sale of plant outside district.

14. If at any time after the passing of this Act any local authority whose district is beyond the district of the Council but as to the whole or any part thereof within their limits for

the supply of gas shall give not less than six months' notice in writing to the Council of their desire to purchase such portion of the gasworks and plant of the Council as is contained within the district of any such local authority and shall obtain the consent of the Local Government Board to such purchase and shall apply to Parliament or the Local Government Board for power to purchase such portion of the gasworks and plant of the Council (except the mains and pipes or other apparatus which shall be necessary for supplying with gas any other part of the limits of the Council for the supply of gas) and to supply gas within such district then it shall not be lawful for the Council to oppose such application (except as to the details thereof) and if such powers of purchase and supply be granted the Council shall sell and such local authority shall purchase the portion of the gasworks and plant of the Council (except as aforesaid) within the district of such local authority at such price being a sum in gross and upon such terms and conditions as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Acts Any such purchase shall be deemed to be a purpose of the Public Health Act 1875 except so far as may be otherwise provided for by Parliament The Council shall apply the proceeds of any sale under this section in the same manner as they are required to apply money received from sales of land Provided that after the completion of such purchase all obligations on the part of the Council to supply gas within the district of the purchasing authority shall cease and determine.

A.D. 1912.

15. The Council may for the purposes of their undertaking purchase and take (by agreement but not otherwise) and may hold in addition to the lands described in the schedule to the Act of 1911 any lands and hereditaments not exceeding in the whole five acres which the Council may require for the purposes of the 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 said schedule.

Power to purchase lands by agreement.

16. Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Council 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 such consideration and purpose and on such terms and

Power to retain sell &c. lands.

A.D. 1912. 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 acquired by them under this Act and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interests therein 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.

Proceeds of
sale of sur-
plus lands.

17. The proceeds of the sale of any lands or other property of the Council under the powers of this Act and the fines and premiums on any leases granted by the Council under this Act shall be distinguished as capital in the accounts of the Council and shall be applied in discharge of any moneys borrowed by the Council under this Act to which such capital moneys would be properly applicable or if there shall be no moneys owing under this Act such proceeds shall be applied in or towards paying off any other moneys for the time being owing by the Council but shall not be applied to the payments of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board and borrowed money discharged by the application of such sums shall not be re-borrowed.

Limiting
price of gas.

18. 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—

(A) within the urban district of Ashborne exceed three h illings and fourpence; and

(B) beyond the urban district of Ashborne exceed by more than sixpence the price for the time being charged by the Council in the urban district of Ashborne

for every thousand cubic feet and so in proportion for any smaller quantity.

Testing-
place.

19. Within six months from the transfer a testing-place or testing-places shall be provided at some convenient part or parts of the gasworks of the council or at the offices of the Council.

Testing
quality.

20.—(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.

A.D. 1912.

(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 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 to be equally or more suitable for the testing.

(3) The Council shall at all times keep in proper order and repair the apparatus required for the testing of gas in accordance with the provisions of this Act.

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

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

22. 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 any circumstances beyond the control of the Council Provided that the want of sufficient funds shall not be held to be a circumstance beyond the control of the Council.

No penalty in case of unavoidable cause.

23. Notwithstanding anything contained in the Gasworks Clauses Act 1871 or any other Act a person shall not be entitled to demand from the Council a supply or the continuance of a supply of gas for premises having a separate supply (that is to say a supply from an installation other than that of the Council) unless he shall have previously agreed to pay the

Supply of gas where consumer has separate supply.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(*Gas*) Act, 1912.

A.D. 1912. Council such minimum annual sum as will give to them a reasonable return on the capital expenditure and standing charges incurred by them to meet the possible maximum demand for those premises and the minimum annual sum to be so paid shall be determined in default of agreement by arbitration in manner provided by the Arbitration Act 1889.

Dwelling-houses for persons in employ of Council.

24. The Council may erect fit up maintain and let upon the lands for the time being belonging to or leased by them for the purpose of the gas undertaking dwelling-houses for persons employed by them for the purposes of that undertaking.

FINANCE.

Power to borrow.

25.—(1) The Council may independently of any other borrowing power borrow at interest money for the following purposes (that is to say):—

- (A) For the purchase of the undertaking of the company and for paying any sums payable by the Council to the company or to any of their officers and servants by way of compensation under this Act and defraying the costs charges and expenses incident to such purchase and to the winding up of the company as provided by this Act (other than the costs of this Act) the sums requisite for those purposes;
- (B) For the extension and improvement of the gas undertaking of the Council any sum or sums not exceeding in the whole five thousand pounds;
- (C) For paying the costs and expenses of this Act and of opposing the Act of 1911 as herein-after provided the sum requisite for that purpose.

(2) In order to secure the repayment of the moneys borrowed under this section and the payment of the interest thereon the Council may mortgage or charge the revenue of the gas undertaking and if they think fit as a collateral security the district fund and general district rate.

Period for payment off of money borrowed.

26. The Council shall pay off all moneys borrowed by them under this Act within the respective periods following (herein-after referred to as "the prescribed period") (that is to say):—

As to moneys borrowed for the purposes (A) and (B) mentioned in the section of this Act the marginal note of

which is "Power to borrow" thirty-five years from the date or dates of the borrowing of the same: A.D. 1912.

As to moneys borrowed for the purpose (c) mentioned in the said section five years from the date of the passing of this Act.

27. The powers of borrowing money given by this Act shall not be restricted by any of the regulations contained in section 234 (Regulations as to exercise of borrowing powers) of the Public Health Act 1875 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. Section 234 of Public Health Act 1875 not to apply.

28. The Council may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another or others Provided that the provisions of this Act relating to sinking funds shall apply to sinking funds formed for the repayment of moneys borrowed under the Local Loans Act 1875 instead of the provisions of section 15 of that Act. Mode of raising money.

29. The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say):— Provisions of Public Health Act 1875 as to mortgages to apply.

- Section 236 (Form of mortgage);
- Section 237 (Register of mortgages);
- Section 238 (Transfer of mortgages);
- Section 239 (Receiver may be appointed in certain cases).

30. The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within one year or when the money is repaid by half-yearly instalments within six months from the date of borrowing. Mode of payment off of money borrowed.

31.—(1) If the Council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Act such fund shall be formed and maintained either— Sinking fund.

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together

A.D. 1912.

amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is herein-after called a "non-accumulating sinking fund"; or

- (B) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three pounds per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is herein-after called an "accumulating sinking fund."

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in statutory securities the Council being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investment of the fund may be applied by the Council towards the equal annual payments to the fund.

(4) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) (A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Council:

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the

fund are based any such excess may be applied towards such annual payments. A.D. 1912.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Council in addition to the payments provided for by this Act.

(7) If it appears to the Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided that if it appears to the Local Government Board that any such increase is necessary the Council shall increase the payments to such extent as the Board may direct.

(8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Council may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the money for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Council may with the consent of the Board discontinue the annual payments to such sinking fund until the Board shall otherwise direct.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(Gas) Act, 1912.

A.D. 1912.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes as the Council with the consent of the Local Government Board may determine.

Protection of lender from necessity of inquiry.

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

Council not to regard trusts.

33. The Council shall not be bound to see to the execution of any trust whether express implied or constructive to which any loan or security for loan given by them under or for the purposes of this Act may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages of the Council shall 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.

Power to re-borrow.

34.—(1) The Council shall have power—

(A) To borrow for the purpose of paying off any moneys previously borrowed under this Act in pursuance of any statutory borrowing power which are intended to be forthwith repaid; or

(B) To borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Council in repaying moneys previously borrowed under this Act in pursuance of any statutory borrowing power and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired

and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Council shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Council shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

(A) By instalments or annual payments; or

(B) By means of a sinking fund; or

(C) Out of moneys derived from the sale of land; or

(D) Out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

35.—(1) The clerk of the Council shall within forty-two days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to the sinking fund in respect of any of the moneys raised by the Council in pursuance of any statutory borrowing power and at any other time when the Local Government Board (in this section called "the Board") may require such a return to be made transmit to the Board a return in such form as may be prescribed by the Board and if required by the Board verified by a statutory declaration of the clerk showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year together with such further information (if any) as the Board shall require and in the event of his failing to make such

Return
to Local
Government
Board as to
sinking fund.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(Gas) Act, 1912.

A.D. 1912. return the clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by the Board out of the High Court.

(2) If it appears to the Board by that return or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for the sinking fund (whether such instalment or annual payment or sum is required by the Act in pursuance of which the moneys are raised or by the Board in virtue thereof to be paid appropriated or set apart) or have applied any portion of the sinking fund to any purposes other than those authorised the Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default has been made shall be paid or applied as in such order mentioned and any such order shall be enforceable by writ of Mandamus to be obtained by the Board out of the High Court.

Application of moneys borrowed.

36. All moneys borrowed by the Council under the powers of this Act shall be applied only to the purposes for which they are authorised to be borrowed and to which capital is properly applicable.

Power to invest sinking funds in statutory securities.

37. 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.

Expenses of execution of Act.

38. Any expenses of the execution by the Council of this Act with respect to which no other provision is made shall be defrayed by the Council out of the district fund and general district rate.

Separate account of gas undertaking to be kept.

39. The Council shall keep a separate account of their receipts and expenditure for gasworks purposes on capital and revenue account and the provisions of section 58 of the Local

Government Act 1894 shall apply to the accounts of the Council and the accounts of their committees officers and assistants under this Act. A.D. 1912.

40. The Council shall apply all money from time to time received by them in respect of their gas 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):— Application
of gas
revenue.

First In payment of the working and establishment expenses and cost of maintenance of the gas undertaking;

Secondly In payment of the interest on moneys borrowed by the Council under this Act for the purposes of the gas undertaking;

Thirdly In providing the requisite appropriations instalments or sinking fund payments under this Act in respect of moneys borrowed by the Council for the purposes of the gas undertaking;

Fourthly In providing a reserve fund for the gas undertaking if they think fit by setting aside such money as they from time to time think reasonable and investing the same and the resulting income thereof in Government securities or any statutory security and accumulating the same at compound interest until the fund so formed amounts to a sum not exceeding ten per centum of the amount of the capital account of the gas undertaking for the time being which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Council from the 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 is at any time reduced it may thereafter be again restored to the amount aforesaid and so from time to time as often as such reduction happens;

Fifthly In improving and extending the gas undertaking: And the Council shall carry to the district fund any balance remaining in any year after retaining or setting aside such a sum as may in the opinion of the Council be required for carrying on the gas undertaking and paying the current expenses connected therewith.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(*Gas*) Act, 1912.

A.D. 1912.

As to deficiency in receipts.

41. Any deficiency in the revenue or receipts of the Council on account of the gas undertaking shall be made good out of the district fund and the next general district rate to be made by the Council shall be increased so far as may be necessary to recoup to the district fund the amount so made good out of that fund.

Inquiries by Local Government Board.

42.—(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.

(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.

MISCELLANEOUS.

Authentication and service of notices &c.

43.—(1) Where any notice or demand under this Act requires authentication by the Council the signature of the clerk or other duly authorised officer of the Council shall be a sufficient authentication.

(2) Notices demands orders and other documents required or authorised to be served under this Act may be served in the same manner as notices under the Public Health Act 1875 are by section 267 of that Act authorised to be served Provided that in the case of any company any such notice demand order 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 in county court.

44. Proceedings for the recovery of any demand made under the authority of this Act or of 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. A.D. 1912.

45. 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. Copy of Act to be registered.

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.

46. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto and also the costs charges and expenses incurred by the Council in opposing the Bill for the Act of 1911 as taxed by the taxing officer of the House of Lords or the House of Commons shall be paid by the Council out of the district fund and general district rate or out of moneys borrowed under the authority of this Act. Costs of Act.

[Ch. lxxxiii.] *Ashborne Urban District Council* [2 & 3 GEO. 5.]
(Gas) Act, 1912.

A.D. 1912. The SCHEDULE referred to in the foregoing Act.

PROVISIONS OF THE ACT OF 1911 EXCEPTED FROM REPEAL.

Section.	Marginal Note.
WORKS AND LANDS.	
46	Powers as to construction and maintenance of gasworks &c. (and the schedule to the Act of 1911 therein referred to).
47	Power to lay pipes in streets not dedicated to public use.
48	Power to utilise pipes for ancillary purposes.
51	For protection of Derbyshire and Staffordshire County Councils.
52	For protection of London and North Western and North Staffordshire Railway Companies.
PRICE TESTING AND QUALITY OF GAS.	
54	Charge for gas supplied by means of prepayment meters.
55	Quality of gas.
58	Pressure.
SUPPLY OF GAS.	
61	Power to enter premises and remove fittings.
63	As to construction and placing of pipes &c. between mains and meters.
64	Anti-fluctuators for gas engines.
65	Consumers to give notice to company before removing.
67	Power to refuse to supply persons in debt for other property.
68	Notice to discontinue supply of gas.
69	Period of error in defective meters.
70	Company may contract with local authority &c. for supply of gas in bulk.

Printed by EYRE and SPOTTISWOODE, Ltd.,

FOR

ROWLAND BAILEY, Esq., C.B., 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
H.M. STATIONERY OFFICE (SCOTTISH BRANCH), 23, FORTH STREET, EDINBURGH or
E. PONSONBY, LTD., 116, GRAFTON STREET, DUBLIN ;
or from the Agencies in the British Colonies and Dependencies,
the United States of America, the Continent of Europe and Abroad of
T. FISHER UNWIN, LONDON, W.O.