

[38 & 39 VICT.] *The Birmingham (Corporation) [Ch. clxxxviii.]*
Water Act, 1875.



CHAPTER clxxxviii.

An Act for empowering the Mayor, Aldermen, and Burgesses of the borough of Birmingham in the county of Warwick to purchase the undertaking of the Company of Proprietors of the Birmingham Waterworks; and for other purposes.

A.D. 1875.

[2d August 1875.]

WHEREAS the borough of Birmingham in the county of Warwick (in this Act called the borough) is a municipal borough under the local management and government, subject and according to the provisions of the Acts relating to municipal corporations and to sanitary authorities, of the mayor, aldermen, and burgesses of the borough (in this Act called the Corporation):

And whereas the Company of Proprietors of the Birmingham Waterworks (in this Act called the Company) were before and in the year 1851 and now are supplying with water the town of Birmingham and its neighbourhood, under the following Acts; (namely,)

An Act passed in the seventh year of the reign of King George the Fourth, intituled An Act for supplying with water the town and neighbourhood of Birmingham in the county of Warwick:

The Birmingham Waterworks (Capital) Act, 1854:

Birmingham Waterworks Act, 1855:

The Birmingham Waterworks Act, 1866:

The Birmingham Waterworks Act, 1870:

And whereas by the Birmingham Improvement Act, 1851, it was (among other things) enacted (section one hundred and nine) to the effect following; (that is to say,)

That the council of the borough might, after twelve months notice in writing of the intention of the council published as therein mentioned and given to the Company, purchase the whole of the waters, engines, machinery, pipes, mains, apparatus, works, and reservoirs of and belonging to the Company, and

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.

the Company were thereby required and authorised, upon the request in writing of the council after that notice, to sell, convey, and transfer the same to the council, upon such terms as might be agreed upon between the council and the Company, and in case the Company should not agree as to the price to be paid, then the same should be settled under the powers of the Lands Clauses Consolidation Act, 1845, relating to the purchase of lands otherwise than by agreement; and from the date of such purchase all the powers, rights, and privileges of the Company in regard to the premises so purchased, and to the supply of water within the borough, and the receiving or recovering of rents or rates for the same conferred by any Act of Parliament, and all remedies for the infringement of any of the provisions of any such Act, should belong to and might be held, used, exercised, and enjoyed or enforced by the council :

And whereas by the same Act it was further enacted (sections one hundred and forty-one and one hundred and forty-two) to the effect following; (that is to say,)

That the council might from time to time borrow such sums, not exceeding in the whole the sum of two hundred and fifty thousand pounds, as should be necessary to enable them to purchase the works and reservoirs of the Company, and might mortgage all or any of such works and the rents or rates arising therefrom to secure the same :

That no part of the purchase money to be paid for the waterworks, or of the interest thereon, or of the expenses attending the repair and management of the waterworks, should be charged upon and paid out of the borough improvement rate and other rates to be levied by virtue of that Act :

And whereas it would be of great advantage to the borough and its neighbourhood if the undertaking of the Company were vested in the Corporation; but inasmuch as doubts may be entertained whether the power of purchase conferred on the Corporation by the Birmingham Improvement Act, 1851, is now exerciseable, as the provisions of that Act are insufficient to enable the Corporation to raise the money required to effect the purchase, it is expedient that new powers of purchase and of raising money be conferred on the Corporation :

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

And whereas by the Birmingham Improvement Act, 1851, it is enacted (among other things) to the effect (section 63) that no application shall be made to Parliament by the council for further

[38 & 39 VICT.] *The Birmingham (Corporation) [Ch. clxxxviii.]*
Water Act, 1875.

powers, or for power to raise further sums of money for the purposes of that Act, or for the purposes of any further or other Act, until the council shall, by notice given for two consecutive weeks in at least two of the newspapers published in the borough, have called a public meeting of the ratepayers of the borough, at which meeting the council of the borough shall cause to be stated the object of the intended application to Parliament, nor unless at such meeting the council shall be authorised by a majority of the ratepayers present at such meeting to make such application : Provided always, that the mayor of the borough shall be the chairman of such meeting, and the voting at such meeting shall be according to the principle established by the Acts of the fifty-eighth George the Third, chapter 69, and fifty-ninth George the Third, chapter 85, for the regulation of vestries : Provided also, that if a poll shall be demanded at the said meeting in respect of any question it shall be open to all the ratepayers within the borough, during a period of three days next following the holding of such meeting, to signify their votes in writing in respect of such question, and the same shall be decided by the majority of votes so signified, and the principle of voting shall be in accordance with the principle to be adopted at the meeting under the provisions in the said section contained :

A.D. 1875.

And whereas under the last-recited enactment the council of the borough caused to be held a meeting of the ratepayers of the borough on the twenty-sixth day of February one thousand eight hundred and seventy-five, and at that meeting a resolution was duly passed authorising and empowering the council to make an application to Parliament for an Act for empowering the Corporation to purchase the undertaking of the Company :

And whereas estimates have been prepared by the Corporation showing that they may from time to time require to borrow sums of money to be applied to the purposes of waterworks, being permanent works within the meaning of the fifty-seventh section of the Local Government Act, 1858, and to the redemption of annuities ; and it is expedient that they should be authorised to borrow money for those purposes :

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

1. This Act may be cited as *The Birmingham (Corporation) Water Act, 1875.* Short title.

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.

Interpreta-
tion of terms.

2. In this Act—

“Annuity” or “annuities” means any annuity or annuities created by the Corporation under the powers of this Act:

“Annuitant” means any person, company, or corporation for the time being entitled to such an annuity:

“Court of competent jurisdiction” shall have effect as if the debt or demand with respect to which it is used was a common simple contract debt, and not a debt or demand created by statute.

Company to
sell their
undertaking
on requi-
sition of Cor-
poration.

3. The Corporation may at any time within three years after the passing of this Act, by writing under their common seal addressed and sent to the secretary, or delivered at the principal office of the Company, require the Company to sell their undertaking, property, rights, powers, and privileges to the Corporation, and thereupon the Company shall sell to the Corporation and the Corporation shall purchase from the Company their undertaking, property, rights, powers, and privileges as the same exist at the time of purchase, for such consideration in perpetual annuities and on such terms as the Company and the Corporation agree, or, in default of agreement, as may be settled by arbitration, in the manner provided by “The Lands Clauses Consolidation Act, 1845,” for settling cases of disputed compensation.

Transfer of
undertaking
by deed.

4. The sale of the Company’s undertaking shall be carried into effect by a deed duly stamped and truly stating the consideration, which deed may be in the form set forth in the First Schedule to this Act, or to the like effect, with such variations and additions as circumstances require, and on the execution of that deed by the Company, their undertaking, and all causes of action, suit, or proceeding belonging to them, shall by virtue of that deed and of this Act become and shall thenceforth be transferred to and vested in the Corporation, subject and according to the provisions of this Act; and thenceforth the Corporation, in their own name and for their own benefit, shall have and hold the undertaking, and may enforce the causes of action, suit, or proceeding aforesaid (which transfer and vesting is in this Act referred to as the transfer).

Application
of the Com-
pany’s Acts
to the Cor-
poration.

5. From and after the transfer all the powers and authorities of the Company under the special Acts relating to the Company shall be by virtue of this Act transferred to and vested in the Corporation, and those Acts shall be read and have effect as if the Corporation had been therein named instead of the Company, subject nevertheless and according to the following exceptions and provisions; (namely,)

[38 & 39 VICT.] *The Birmingham (Corporation)* [Ch. clxxxviii.]
Water Act, 1875.

(1.) The provisions of the Companies Clauses Consolidation Act, 1845, and of the Companies Clauses Act, 1863, incorporated with the special Acts relating to the Company, shall not apply to the Corporation: A.D. 1875.

(2.) None of the provisions of those special Acts in any manner relating to the share or loan capital of the Company, or to any limitation of the amount of profit to be received by the Company or undertakers, or to the constitution, meetings, or directors of the Company, shall apply to the Corporation.

6. The mortgage debt of the Company at the time of the transfer and the interest thereon shall, after the transfer, continue to be a first charge on the waterworks undertaking of the Corporation, and shall further be a charge on the borough fund and borough rate, in priority to all charges made thereon respectively subsequent to the passing of this Act. Mortgage debt to continue first charge on undertaking.

7. All debts, liabilities, and obligations of the Company (including the mortgage debt of the Company), and all rents, rates, charges, and sums of money, actions, suits, and proceedings, and causes of action, suit, or proceeding, which at the time of the transfer are due or owing from or pending or existing against the Company, shall be paid, discharged, settled, and satisfied by the Corporation. Company's debts to be paid by Corporation.

8. If at the time of the transfer any action, suit, or proceeding, or any cause of action, suit, or proceeding, is pending or existing against the Company, the same shall not abate or be discontinued, or in anywise prejudicially affected by reason of the transfer or of anything in this Act, but the same may be continued, prosecuted, and enforced against the Corporation as and when it might have been continued, prosecuted, and enforced against the Company if this Act had not been passed, but not further or otherwise. Pending actions, &c., against Company.

9. The Corporation shall grant to the holders of all shares in the capital of the Company perpetual annuities of the amounts agreed on or awarded in respect of each share. Grant of annuities to shareholders.

10. The several persons who at the transfer appear in the books of the Company to be proprietors of shares in the capital of the Company, or their respective executors, administrators, or assigns, shall be considered to be shareholders thereof and entitled to annuities. Company's books evidence as to shareholders.

11. The annuities shall become due and payable half yearly on the first day of July and the first day of January in every year, the first of such payments to become due and payable on the first day Annuities to be payable half yearly.

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875. of July or the first day of January (as the case may be) next succeeding the date of the award in case the purchase be in pursuance of arbitration, or in case the purchase be by agreement, on such day as shall be agreed on between the Company and the Corporation, but without prejudice to the right of the Company to declare any dividend which they would have been entitled to declare out of the profits of the undertaking made prior to the date on and from which the annuities shall begin to accrue, and the amount of such dividend shall be a liability of the Corporation, and shall be paid by the Corporation to the directors of the Company, to be by them distributed to the several persons entitled thereto.

Security for annuities.

12. The annuities shall be charged on and issue out of the revenues arising from the waterworks undertaking of the Corporation, and on and out of the borough fund and borough rate of the borough for the time being.

Warrants to be issued to annuitants.

13. The annuities shall be called Birmingham Corporation water annuities, and the Corporation shall deliver to each annuitant, or send by post in a prepaid letter addressed to the registered address of such annuitant, a warrant or order on the treasurer of the borough for every payment to such annuitant.

Annuities to represent shares in Company.

14. The annuities shall in all respects at law and in equity be substituted for and represent the shares in the capital of the Company, and the several persons in whom the annuities vest shall hold them on and subject to the same trusts, powers, and liabilities as those on and to which their shares in the capital of the Company were held, and so as to give effect to and not to defeat any testamentary or other disposition.

Corporation to issue certificates for annuities.

15. The Corporation shall issue to every person in whom an annuity vests, or to his representatives on demand and on delivery of his or their share certificate, or proof of its loss or destruction, a certificate of the annuity, free of expense to the annuitant, and the certificate may be in the form given in the Second Schedule to this Act, or to the like effect, and by agreement one certificate may include any number of annuities.

Annuities may be divided.

16. An annuity may, with the consent of the Corporation, be divided at the option of the annuitant into two or more annuities, of any amount not being less than one shilling, and all annuities, whether the same have been subdivided or not, may with the like consent be consolidated with other annuities, as the annuitant may direct.

[38 & 39 VICT.] *The Birmingham (Corporation)* [Ch. clxxxviii.]
Water Act, 1875.

17. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the distribution of the capital of the Company into shares, and with respect to the transfer or transmission of shares, are hereby incorporated with this Act, and shall (except as expressly varied by this Act) apply to the Corporation and the annuities and annuitants as if the Corporation were the Company and the annuities were shares in the Company's undertaking and the annuitants were shareholders, but the form of transfer of an annuity may be according to the form given in the Third Schedule to this Act, or to the like effect.

A.D. 1875
Transfer, &c.
of annuities.

18. If within thirty days after an instalment of an annuity becomes payable it is not paid, the annuitant may, subject to the provisions of this Act, recover it against the Corporation in any court of competent jurisdiction.

Recovery of
arrears of
annuities.

19. The annuitants, without prejudice to other remedies, may enforce payment of arrears of their annuities, by the appointment of a receiver, as if they were mortgagees of the Corporation, and each annuity was interest on a mortgage of the Corporation, and for that purpose the provisions in that behalf applicable of the Companies Clauses Consolidation Act, 1845, shall apply mutatis mutandis to the Corporation and the annuitants, and to the receiver; and the amount in arrear to authorise an application for a receiver shall be not less than the sum of one thousand pounds.

Receiver for
annuitants.

20. The Corporation may at any time, if and when they think fit, redeem any annuity, at a price to be agreed on between the Corporation and the annuitant, and on any annuity being redeemed the same shall be extinguished.

Power to
redeem an-
nuities.

21. If any money is payable under this Act to or for the benefit of a person being an infant or person of unsound mind, so found by inquisition, the receipt of the guardian or committee of his estate shall be a discharge to the Corporation for the same.

Receipts of
guardians,
&c.

22. The directors of the Company may exercise all powers necessary for winding up the affairs of the Company, and when and as soon as their affairs have been wound up the Company shall be by virtue of this Act dissolved.

Winding up
and dissolu-
tion of Com-
pany.

23. The Corporation may from time to time borrow at interest on the security of the borough fund and borough rate, and of the revenue of their waterworks undertaking, as follows; (that is to say,)

Power to
borrow
money.

For the purposes of permanent works, within the meaning of the fifty-seventh section of the Local Government Act, 1858, such sum or sums of money as the Corporation from time to time

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 Vict.]
Water Act, 1875.*

A.D. 1875.

think requisite, not exceeding the sum of one hundred and fifty thousand pounds, and, with the approval of the Local Government Board, any further sum or sums not exceeding one hundred thousand pounds :

For the redemption of the annuities, such further sum or sums as the Corporation from time to time may find requisite, not exceeding in the whole the capitalised value thereof, at such rate, not exceeding twenty-five years purchase, as may be agreed between the Corporation and the several annuitants :

And may mortgage the borough fund and borough rate, and the revenue of their waterworks undertaking, as a security for the repayment of the money so borrowed with interest accordingly.

Form of mortgage.

24. Every mortgage made by the Corporation under this Act shall be by deed under their common seal, duly stamped and truly stating the consideration, and may be in the form given in the Fourth Schedule to this Act, or to the like effect.

Coupons for interest on mortgages.

25. The Corporation may issue to holders of their mortgages under this Act coupons for interest thereon, in such form as they think fit, so as every coupon do refer to the mortgage to which it relates, and do specify the amount and time of payment of one half year's interest to fall due on the principal money secured by the mortgage, and be authenticated by the signatures of two persons thereunto expressly authorised by the Corporation (which authorisation shall be presumed until the contrary is shown), and on presentation of a coupon to the treasurer of the borough he shall pay to the presenter the amount of interest thereon expressed and thereby appearing to be then due and payable, and on the audit of the treasurer's accounts a coupon shall be accepted as a sufficient warrant for his payment of the amount for which it was issued, but the treasurer shall not be bound, unless he sees fit, to make any payment of interest beyond the amount of the money of the Corporation then in his hands and applicable in that behalf.

Payment off of money borrowed by instalments or sinking fund.

26. The Corporation shall pay off any money borrowed by them under this Act, either by instalments or by means of a sinking fund, appropriated and invested, and with the accumulations thereof (if any) from time to time applied for that purpose, as follows; (namely,)

As regards any money borrowed before the expiration of five years from the passing of this Act, within ninety years after the expiration of those five years; and

As regards any money borrowed after the expiration of those five years, within ninety years after the same is borrowed :

[38 & 39 VICT.] *The Birmingham (Corporation)* [Ch. clxxxviii.]
Water Act, 1875.

And the amount of the several instalments or appropriations shall be such as the Local Government Board shall, having regard to the provisions of this section, approve. A.D. 1875.

27. The Corporation shall, at the expiration of five years from the passing of this Act, out of the revenue arising from their water-works undertaking, or out of the borough fund and borough rate of the borough, make provision for the extinction of any annuities issued by them under this Act, either by instalments or by means of a sinking fund, appropriated and invested, and with the accumulations thereof (if any) from time to time applied for that purpose, so as in either case to extinguish or be in a position to extinguish the whole of such annuities within ninety-five years from the passing of this Act, and if at the end of that time the annuities, or any of them, are not wholly extinguished, then the Corporation shall, as long as they are liable to pay the same, apply in or towards that payment the annual income arising from the sinking fund provided under this section. And the amounts of the instalments and the amounts to be from time to time appropriated for such sinking fund shall be such as the Local Government Board shall, having regard to the provisions of this section, approve. Sinking fund for annuities.

28. The Corporation may from time to time re-borrow any amount borrowed by them under this Act and paid off otherwise than by instalments or by means of a sinking fund. Power to re-borrow.

29. A lender of money to the Corporation under this Act shall not be bound or entitled to inquire as to the observance by the Corporation of any provision 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 by him or any part thereof. Protection to lenders.

30. Where a power has been before the passing of this Act given to trustees, executors, administrators, or other persons holding funds in a fiduciary capacity to invest those funds in or on shares, mortgages, or bonds of the Company, or on the mortgages or debentures of a municipal corporation in England, or a power is after the passing of this Act given to trustees, executors, administrators, or other persons holding funds in a fiduciary capacity to invest those funds on the mortgages or debentures of a municipal corporation in England, that respective power shall, unless the contrary is expressed in the instrument creating it, be deemed to include a power to invest those funds in Birmingham Corporation debenture stock, and an investment thereof in the same may be made accordingly. Power for trustees to invest in debenture stock.

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.

Priority of
existing
mortgages.

31. All mortgages granted by the Corporation subsisting at the passing of this Act shall during their continuance have priority of charge on the security therein comprised over all mortgages, debenture stock, and annuities granted or issued under this Act.

Application
of revenue.

32. The Corporation shall keep accounts in respect of water separate from all their other accounts, and shall apply all money from time to time received by them in respect of their waterworks undertaking, except borrowed money, as follows ; (that is to say,)

First. In payment of their costs, charges, and expenses of and incidental to the collecting and recovering of water rents and rates, and of the borrowing of money under this Act :

Secondly. In payment of the working and establishment expenses and cost of maintenance of their waterworks undertaking :

Thirdly. In payment of the interest on the mortgage debts of the Company according to their several priorities :

Fourthly. In payment of the annuities :

Fifthly. In payment of the interest on money borrowed under this Act :

Sixthly. In providing the requisite instalments or sinking fund under this Act :

Seventhly. In providing a reserve fund, 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 in Birmingham Corporation debenture stock or other securities, and accumulating the same at compound interest until the fund so formed amounts to fifty thousand pounds, which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Corporation from their water undertaking, or to meet any extraordinary claim or demand at any time arising against the Corporation in respect of that undertaking, and so that if that fund is at any time reduced it may thereafter be again restored to the sum of fifty thousand pounds, and so from time to time as often as such reduction happens :

And shall carry to the borough fund any balance remaining in any year and the annual proceeds of the reserve fund when amounting to fifty thousand pounds.

Application
of money
borrowed.

33. The money borrowed under this Act shall be applied for the purposes for which it was borrowed, and generally for objects to which capital money is properly applicable, and for no other purposes.

[38 & 39 VICT.] *The Birmingham (Corporation) [Ch. clxxxviii.]*
Water Act, 1875.

34. The treasurer of the borough shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or to be paid off by instalments under this Act, transmit to the Local Government Board a return in the form prescribed by that Board, and verified by statutory declaration if so required by them, showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the amount paid off by instalment, and the purposes to which any portion of the sinking fund or investment has been applied during the same period, and the total amount, if any, remaining invested at the end of the year; and in the event of any wilful default in making such return he shall be liable to a penalty not exceeding twenty pounds. If it appears to the Local Government Board, by that return or otherwise, that the Corporation have failed to set apart the sum required for the sinking fund, or to pay any instalment, or have applied any portion of the money set apart for the sinking fund to any purposes other than those authorised, the Local Government Board may, if they think fit, and after hearing the Corporation if desirous to be heard, by order direct that a sum not exceeding double the amount in respect of which default has been made shall be set apart and invested or applied as part of the sinking fund, and that order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the Court of Queen's Bench.

A.D. 1875.
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Annual re-
turn to Local
Government
Board with
respect to
sinking fund.

35. The Corporation may from time to time sell any part of the works, lands, and property transferred to them by the Company and not required by the Corporation, and they shall apply the proceeds of any sale in paying off money borrowed by them, or in redeeming annuities, or in purchasing land and constructing and improving waterworks, and for other purposes for which capital is properly applicable.

Power to sell
surpluslands.

36. For enabling the Corporation to substitute a continuing stock for renewable mortgages in the ordinary form, the following provisions shall have effect; (namely,)

Power to
create debenture
stock.

- (1.) The Corporation may raise any money which they are by this Act or any other Act for the time being in force authorised to raise by creation and issue, at such times, in such amounts and manner, at such price, on such terms, subject to such conditions, and with such rights and privileges as they think fit, of stock, to be called Birmingham Corporation debenture

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.
—

stock, bearing a fixed and perpetual interest, payable half yearly or otherwise, and redeemable (at the option of the Corporation) at par at such times and on such conditions as the Corporation declare at the creation thereof:

- (2.) The debenture stock shall, subject to the provisions of this Act, be transferable by deed, which may be in the form in the Sixth Schedule to this Act, or to the like effect, and shall have all the incidents of personal estate:
- (3.) The Corporation shall cause entries of the debenture stock from time to time issued by them to be made in a register, with the names and addresses of the holders and the amounts of their respective holdings:
- (4.) The register shall be accessible for inspection at all reasonable times to mortgagees and holders of debenture stock of the Corporation without charge:
- (5.) The Corporation shall deliver to each holder of debenture stock a certificate stating the amount held by him, which may be in the form in the Fifth Schedule to this Act, or to the like effect:
- (6.) Debenture stock shall entitle the holder to the rights and powers of a mortgagee of the Corporation by deed under this Act other than the right to require payment of the nominal principal money represented by the debenture stock:
- (7.) The interest of debenture stock issued under this Act shall rank equally with the interest of all debenture stock at any time issued by the Corporation, and shall rank after the interest and principal of all mortgages granted by the Corporation before and subsisting at the passing of this Act, and shall rank equally with the interest and before the principal of all mortgages granted by the Corporation after the passing of this Act.

Provision for issue of debenture stock certificates transferable by delivery with coupons payable to bearer.

37. For the benefit of holders of Birmingham Corporation debenture stock (in this section respectively called stockholders and stock,) the following provisions shall have effect:

- (1.) The Corporation may, if they think fit, issue to a stockholder a stock certificate to bearer; that is to say, a certificate of title to his stock or any part thereof, with coupons annexed entitling the bearer of the coupons to the interest of the stock:
- (2.) Where a stock certificate to bearer is outstanding the stock represented thereby shall cease to be transferable by deed:

[38 & 39 VICT.] *The Birmingham (Corporation)* [Ch. clxxxviii.]
Water Act, 1875.

- (3.) A stock certificate to bearer shall entitle the bearer to the stock therein described, and shall be transferable by delivery : A.D. 1875.
- (4.) The bearer of a stock certificate to bearer may, on delivery of his certificate and of all unpaid coupons belonging thereto to the Corporation, require the Corporation to enter him in the register of the Corporation as a holder of the stock described in the certificate under which he derives title, and thereupon that stock shall be re-entered in the register and shall become transferable by deed, and the interest thereon shall be payable as if no stock certificate to bearer had been issued in respect of that stock :
- (5.) The coupons annexed to a stock certificate to bearer shall comprise the interest to be payable in respect of the stock therein described for not less than five years from the date of the certificate :
- (6.) On the expiration of that period fresh coupons shall be issued for a further period of not less than five years, and so for successive periods of not less than five years each during the continuance in force of the stock certificate ; but the Corporation may, if they think fit, in lieu of issuing fresh coupons in respect of a stock certificate to bearer, give in exchange a fresh stock certificate to bearer with coupons annexed :
- (7.) The payment to the bearer of a coupon of the amount expressed therein shall be a full discharge to the Corporation from all liability in respect of that coupon and the interest represented thereby :
- (8.) A trustee of stock shall not apply for or hold a stock certificate to bearer unless authorised to do so by the terms of his trust, and any contravention of this provision by a trustee shall be deemed a breach of trust ; but this provision shall not impose on the Corporation an obligation to inquire whether a person applying for a stock certificate to bearer is or is not a trustee, or subject the Corporation to any liability in the event of their issuing a stock certificate to bearer to a trustee, or invalidate any stock certificate to bearer issued :
- (9.) No notice of any trust in respect of any stock certificate to bearer or of any coupons shall be receivable by the Corporation :
- (10.) If a stock certificate to bearer or a coupon is lost or destroyed, the Corporation shall issue a new certificate or

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.

coupon on receiving indemnity to their satisfaction against the claims of all persons deriving title under the certificate or coupon lost or destroyed :

- (11.) Stock described in a stock certificate to bearer shall be deemed to be charged on the same securities and to be subject to the same powers of redemption, and, save as relates to the mode of transfer and payment of interest thereon, shall be subject to the same incidents in all respects as if it had continued entered in the register of the Corporation as stock transferable by deed :
- (12.) On the issue of a stock certificate to bearer a fee not exceeding five shillings on every one hundred pounds of stock included in the certificate, and a proportionate fee for any less sum of stock, shall be payable to the Corporation :
- (13.) No fee shall be charged on the issue of a stock certificate to bearer in exchange for a like certificate :
- (14.) On the re-entry by the Corporation of the stock included in a stock certificate to bearer, a fee not exceeding five shillings shall be payable to the Corporation :

The Corporation, with the approval of the Local Government Board, may from time to time issue any forms required for carrying into effect the provisions of this section, and make any regulations not inconsistent with this Act relating to the following matters :

- (a.) The time for which coupons are to be given :
- (b.) The mode in which the Corporation are to act in issuing stock certificates to bearer, or entering in the register the holders of stock certificates to bearer, or taking any other proceedings in relation to stock under this section :
- (c.) The mode of proving the title of or identifying any person applying for a stock certificate to bearer, or deriving any title under a stock certificate to bearer :
- (d.) The mode of proof of the loss or destruction of a stock certificate to bearer or coupon :
- (e.) Any other matter necessary to carry this section into effect.

38. For enabling annuitants to obtain the benefit of stock in lieu of annuities, the following provisions shall have effect; (that is to say,)

- (1.) On the application of individual annuitants, the Corporation may, if they think fit, instead of the annuities payable to such annuitants, create and issue debenture stock bearing a fixed and perpetual interest at a rate to be agreed upon between the Corporation and such annuitant, and being

Creation of
Corporation
waterworks
debenture
stock.

[38 & 39 VICT.] *The Birmingham (Corporation)* [Ch. clxxxviii.]
Water Act, 1875.

equal in aggregate amount to the aggregate amount of such individual annuities, and being payable half yearly or quarterly, and the stock being redeemable at and on such price, times, and conditions as the annuitant and the Corporation agree on : A.D. 1875.

- (2.) That stock shall be called Birmingham Corporation waterworks debenture stock (and is in this Act referred to as waterworks debenture stock) :
- (3.) The Corporation shall enter the waterworks debenture stock in a register with the names and addresses of the holders and the amount of their holdings :
- (4.) The register shall be accessible for inspection at all reasonable times to holders of waterworks debenture stock without charge :
- (5.) The Corporation shall deliver to each holder of waterworks debenture stock a certificate under their common seal stating the amount held by him, and the certificate shall entitle the holder to the like rights and powers as if it were a mortgage for a like amount by deed granted by the Corporation other than the right to require payment of the nominal principal money represented by the stock, and the certificate may be in the form in the Fifth Schedule to this Act annexed, or to the like effect :
- (6.) The interest of waterworks debenture stock shall be charged and issuing on and out of the same undertakings, property, works, rental, income, fund, and rates, and in the same manner and priority on, out of, and in which the individual annuities would under this Act have been charged and issuing :
- (7.) Waterworks debenture stock shall be transferable by the holders thereof in any amount, and in other respects shall be transmissible as and have all the incidents of personal estate :
- (8.) Transfers of waterworks debenture stock may be in the form in the Sixth Schedule to this Act, or to the like effect.

39. The several holders of Birmingham Corporation debenture stock and of waterworks debenture stock respectively may, without prejudice to their other remedies, enforce payment of arrears of interest by the appointment of a receiver, and for that purpose the provisions in that behalf applicable of "The Companies Clauses Act, 1863," shall apply mutatis mutandis to the Corporation and to the holders of such respective stocks, and to the receiver ; and the

Receiver for
debenture
stockholders.

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875. amount in arrear to authorise an application for a receiver shall be the sum of one thousand pounds.

Price of water outside borough.

40. Notwithstanding anything in this Act, the charge for water supplied by the Corporation outside the borough shall be the same as the charge for the time being made for water supplied by the Corporation within the borough in the like circumstances.

Provision for supply in bulk to the local boards of Aston and Handsworth.

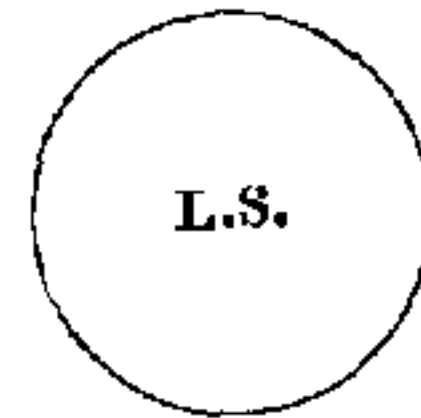
41. If the local boards for the respective districts of the manor of Aston and Handsworth, or either of them, shall, after the Corporation have acquired the undertaking of the Company, at any time within ten years after the passing of this Act, give six months notice in writing to the Corporation that they require to be supplied by the Corporation with water in bulk for domestic use and all other purposes within their respective districts, then and in that case the powers of the Corporation to supply water within the district of the local board giving such notice shall on the expiration of such period of six months cease and determine, and the Corporation shall from and after that period supply such local board with such quantity of water as may be required, not exceeding twenty-five gallons per head per day of the estimated population of such district for the time being; but the Corporation shall not be bound to supply a quantity per head of the population of such district exceeding the quantity per head for the time being supplied by the Corporation to the inhabitants of the borough; the price per one thousand gallons to be paid by the said local boards to the Corporation shall be such as shall be agreed on, or, in default of agreement, as shall be determined by arbitration under the provisions of the Public Health Act, 1848; the price per one thousand gallons to be determined as aforesaid shall include the use of all the then existing mains and pipes employed by the Corporation in the distribution of water within such district; and the Corporation shall from time to time, at the request of the local board so supplied as aforesaid, lay down such other and additional mains and pipes as the local board may require, and the said local board shall pay an annual sum equal to six pounds per cent. per annum on the net outlay thereby from time to time incurred, and on all such other outlay of the Corporation (either within or beyond the said district) as may be necessary for the supply of water in bulk or otherwise rendered necessary for carrying into effect such separate supply to the said local boards; and the local boards shall not discontinue the taking of water under this section without first repaying to the Corporation the loss (if any) sustained by the Corporation by reason of such outlay as aforesaid: Provided that the quality of the water supplied for domestic use shall be equal to that of the water for the time

Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.

Given under the common seal of the mayor, aldermen, and
burgesses of the borough of Birmingham in the county of Warwick
this day of 18 .

Entered



Town Clerk.

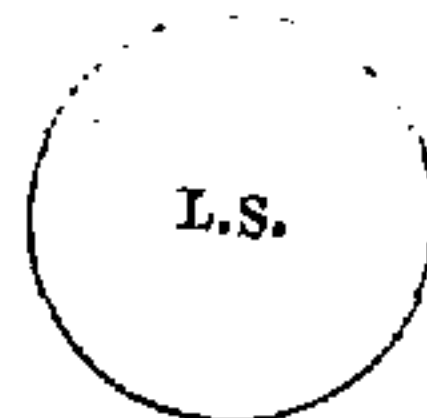
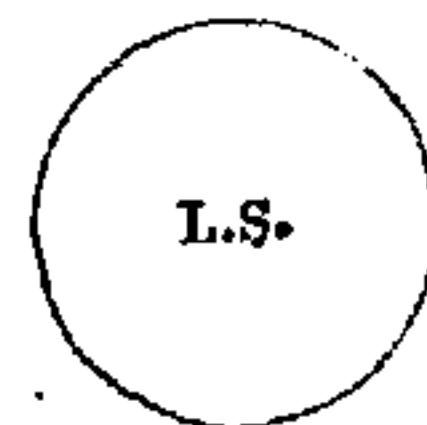
Borough Treasurer.

THE THIRD SCHEDULE.

Form of Transfer of Annuity.

I, of in consideration of the sum of
£ paid to me by of , do hereby transfer
to (herein-after called the transferee) the annuity
or annuities of numbered created under the
Birmingham (Corporation) Water Act, 1875, and all my right and
interest therein, and thereto to hold unto the transferee, his execu-
tors, administrators, and assigns, subject to the several conditions
on which I held the same at the time of the execution hereof; and
I the transferee do hereby agree to take the same annuity [*or*
annuities, *as the case may be*] subject to the same conditions.

As witness our hands and seals this day of 18 .



THE FOURTH SCHEDULE.

Mortgage of Rates.

The Birmingham (Corporation) Water Act, 1875.

Mortgage No. £

By virtue of the above-mentioned Act, and subject to the
provisions thereof relating to priorities of charges, the mayor,
aldermen, and burgesses of the borough of Birmingham, in con-
sideration of pounds paid to them by *A.B.*, of

[38 & 39 VICT.] *The Birmingham (Corporation) [Ch. clxxxviii.]*
Water Act, 1875.

grant to him, his executors, administrators, and assigns, the borough fund and borough rate of the borough, to hold until the said sum be repaid to him or them, with interest at the yearly rate of _____ in the hundred, by equal half-yearly payments on the _____ day of _____ and the _____ day of _____ in every year from the date hereof, the principal to be repaid on the _____ day of _____ at the option of either party, and all payments to be made at the office of the treasurer of the borough. A.D. 1875

Given under the seal of the mayor, aldermen, and burgesses this _____ day of _____ eighteen hundred and _____ .

THE FIFTH SCHEDULE.

Form of Certificate of Debenture Stock.

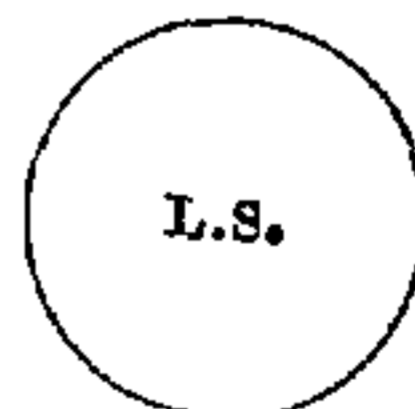
Birmingham Corporation Debenture Stock [*or* Birmingham Corporation Waterworks Debenture Stock].

Certificate No. _____ Amount, £ _____

Register No. _____

This is to certify that _____ of _____ is registered in the books of the mayor, aldermen, and burgesses of the borough of Birmingham in the county of Warwick, as the proprietor of _____ pounds sterling Birmingham Corporation debenture stock (*or* Birmingham Corporation waterworks debenture stock, *as the case may be*), created by virtue of the Birmingham Corporation Water Act, 1875, bearing interest at the rate of £ _____ per centum per annum, payable half yearly on the first day of July and the first day of January in each year, the first payment to be made on the _____ day of _____ next.

Given under the common seal of the mayor, aldermen, and burgesses of the borough of Birmingham in the county of Warwick this _____ day of _____ .



Borough Treasurer.

Entered. _____ A.D. 18 _____ .

Accountant.

NOTE.—This stock certificate must be deposited with the deed of transfer, whether for the whole or any portion thereof, before a new certificate can be issued in exchange.

All certificates will bear the common seal of the Corporation.

[Ch. clxxxviii.] *The Birmingham (Corporation) [38 & 39 VICT.]
Water Act, 1875.*

A.D. 1875.

THE SIXTH SCHEDULE.

Form of Transfer of Debenture Stock.

I, of in consideration of the sum of
pounds paid to me by of do hereby transfer
to (herein-after called the transferee) the sum of
pounds Birmingham Corporation debenture stock (*or* Birmingham
Corporation waterworks debenture stock, *as the case may be*), with
all interest due and to become due thereon, to hold unto the trans-
feree, his executors, administrators, and assigns, subject to the
several conditions on which I held the same at the time of the exe-
cution hereof; and I the transferee do hereby agree to take the
same debenture stock subject to the same conditions.

As witness our hands and seals this day of
in the year of our Lord 18 .

