

[43 & 44 VICT.] *Wigan Improvement Act*, 1880. [Ch. cxxvii.]



CHAPTER cxxvii.

An Act for empowering the Mayor, Aldermen, and Burgesses of the borough of Wigan in the county of Lancaster to make New Streets and Improvement of Streets; and for conferring on them further Borrowing Powers and other powers; and for other purposes. [2nd August 1880.] A.D. 1880.

WHEREAS the borough of Wigan in the county of Lancaster (in this Act called the borough) is a municipal borough under the government of the mayor, aldermen, and burgesses (in this Act called the Corporation) of the borough :

And whereas the Corporation by the Council are the sanitary authority for the borough, with the powers and obligations of an urban sanitary authority; and they also have divers powers under Local Acts relating to the borough, including powers of water and gas supply :

And whereas it is expedient that the Corporation be empowered to make and execute some new streets and improvements of streets :

And whereas it is expedient that the Corporation be authorised to raise further money by borrowing, and that further provision be made respecting repayment of money borrowed by the Corporation and otherwise in relation to their borrowing powers :

And whereas it is expedient that the powers of the Corporation respecting the supply of light and other matters of local management, and various provisions of the Local Acts aforesaid, be in divers respects extended and amended :

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

And whereas plans and sections describing the lines, situations, and levels of works intended to be authorised by this Act, and delineating the lands intended to be authorised to be taken under this Act, and a book of reference to those plans containing the names of the owners or reputed owners, and of the lessees or reputed lessees, and of the occupiers of those lands, and describing those

A.D. 1880. lands, have been deposited with the clerk of the peace for the county of Lancaster (which are in this Act referred to as the deposited plans, sections, and book of reference) :

And whereas estimates have been prepared by the Corporation for the purchase of land and for the execution of the new streets and improvements of streets by this Act authorised, and showing the proposed application for other purposes of money by this Act authorised to be borrowed, and those estimates are as follows :

For new streets and improvements, twenty-five thousand six hundred and ninety-five pounds thirteen shillings and sixpence ;

38 & 39 Vict.
c. 55.

For works under section 154 of the Public Health Act, 1875, ten thousand pounds ;

For private improvement expenses, twenty thousand pounds ;

For the water undertaking, ten thousand pounds ;

For baths and washhouses, ten thousand pounds ;

For the gas undertaking, thirty thousand pounds ;

and the same are permanent works within the meaning of section two hundred and thirty-four of the Public Health Act, 1875 :

And whereas an absolute majority of the whole number of the Council, at a meeting held on the first day of December one thousand eight hundred and seventy-nine, after ten clear days notice by public advertisement of the meeting and of the purpose thereof in the *Wigan Observer*, a local newspaper published or circulating in the borough, such notice being in addition to the ordinary notices required for summoning that meeting, resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund :

And whereas that resolution was published twice in the *Wigan Observer*, a newspaper circulating in the borough, 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 not less than fourteen days after the deposit of the Bill for this Act in the offices of the Houses of Parliament :

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

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

I.—PRELIMINARY.

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1. This Act may be cited as the *Wigan Improvement Act*, 1880. Short title.

2. The following enactments (as far as they are applicable for the purposes of and are not varied by or inconsistent with this Act) are hereby incorporated with and shall be part of this Act; (that is to say,)

Incorporation of general Acts.

The *Lands Clauses Consolidation Acts*, 1845, 1860, and 1869 (in this Act referred to as the *Lands Clauses Acts*).

8 & 9 Vict. c. 18.
23 & 24 Vict.
c. 106.
32 & 33 Vict. c. 18.

3. In this Act “the Council,” “the treasurer,” “the borough fund,” “the borough rate,” “the district fund,” “the general district rate,” “the watch committee,” and “a constable,” mean respectively the Council, the treasurer, the borough fund, the borough rate, the district fund, the general district rate, and the watch committee of the borough, and a constable belonging to the police force of the borough; and where any street, highway, land, or place is referred to, a street, highway, land, or place in the borough is alone comprehended therein, and this Act extends to and operates in and for the borough only.

Interpretation of terms.

In this Act “the *Municipal Corporations Acts*” means the Act of the session of the fifth and sixth years of King William the Fourth (chapter seventy-six), “to provide for the regulation of *Municipal Corporations in England and Wales*,” and Acts for the time being in force amending the same or otherwise relating to municipal corporations in England.

In this Act “the *Public Health Acts*” means the *Public Health Act*, 1875, and all Acts for the time being in force amending or extending the same; and the several words and expressions to which meanings are assigned by the *Public Health Act*, 1875, have in this Act the same respective meanings, unless there is something in the subject or context repugnant to such construction.

In this Act, and for purposes thereof in enactments incorporated therewith, “court of competent jurisdiction” means such a court as would have jurisdiction if the debt or demand with respect to which that expression is used were a common simple contract debt, and not a debt or demand created by statute, and “superior courts” includes any court of competent jurisdiction.

4. This Act shall be carried into execution by the Corporation acting by the Council, and according to the *Municipal Corporations Acts*, *Public Health Acts*, and other laws for the time being affecting the Corporation as a municipal body and a sanitary authority respectively, and with all the rights, powers, privileges, and authorities conferred by those Acts and laws on the Corporation and on the Council and committees of the Council, and the officers, agents, and servants

Act to be executed by Council.

A.D. 1880. — of the Corporation, with respect to matters provided for by or comprised in the Municipal Corporations Acts and Public Health Acts, and other Acts, and as nearly as may be in all respects as if the powers, duties, and property vested in, imposed on, or enjoyed by the Corporation by or under this Act were vested in, imposed on, or enjoyed by them by or under the Municipal Corporations Acts, Public Health Acts, and other Acts respectively.

II.—LANDS.

Power to
take lands
referenced.

5. Subject to the provisions of this Act, the Corporation may enter on, purchase, take, and use such of the lands delineated and described in the deposited plans and book of reference as are required for the purposes of this Act.

Correction
of errors,
omission,
&c.

6. If any omission, mis-statement, or erroneous description is found to have been made of any lands, or of any owners, lessees, or occupiers of any lands, described or intended to be described in the deposited plans or book of reference, the Corporation may apply to two justices for the correction thereof, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by the proposed correction, and if it appears to the justices that the omission, mis-statement, or erroneous description arose from mistake they shall so certify, stating the particulars thereof; and their certificate shall be deposited (as regards both the county and the parish or extra-parochial place) as if it had originally formed part of the deposited plans or book of reference (as the case may be), and shall be kept therewith, and shall be deemed to be part thereof, and thereupon the deposited plans or book of reference (as the case requires) shall be deemed to be corrected according to the certificate, and the Corporation may enter on, purchase, take, and use the lands to which the certificate relates accordingly.

Houses of,
labouring
classes.

7. The Corporation shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses, and shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention; and before taking any such houses the Corporation shall, unless they and the persons aforesaid otherwise agree, procure sufficient accommodation elsewhere for persons belonging to the labouring classes who will be displaced under the

powers of this Act, and for that purpose may appropriate any lands for the time being belonging to the Corporation, and thereon erect houses; and if any question arises as to the sufficiency of the accommodation provided by the Corporation under this section the same shall be determined by a court of summary jurisdiction, under section one hundred and eighty-one of the Public Health Act, 1875. A.D. 1880.

8. The powers of the Corporation for compulsory purchase of lands under this Act shall not be exercised after the expiration of three years from the passing of this Act. Period for compulsory purchase of lands.

9. The Corporation may from time to time, for any purpose of this Act, purchase by agreement any lands not exceeding ten acres, in addition to lands which they are authorised to take by compulsion. Power to take additional lands by agreement.

10. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may, if they think fit, subject to the provisions of those Acts and of this Act, grant to the Corporation any easement, right, or privilege (not being an easement of water), required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the Lands Clauses Acts with respect to lands and rentcharges, as far as the same are applicable in this behalf, shall extend and apply to such grants, easements, rights, and privileges as aforesaid. Power to take easements by agreement.

11. Sections 15 to 21, both inclusive, and section 23 of the *Wigan Improvement Act*, 1874, relating to the granting by the Corporation of building leases of lands adjoining to or near new streets, and otherwise relating to the disposal of lands by the Corporation, shall extend and apply to lands purchased by the Corporation under this Act. Building leases, &c. of lands. 37 & 38 Vict. c. cxxiv.

12. Except as to buildings or lands acquired by the Corporation under the Sanitary Acts or this Act, nothing in this Act shall enable the Corporation to sell, alienate, encumber, or demise for the purposes of this Act without the approbation of the Commissioners of Her Majesty's Treasury, signified in writing after notice in accordance with the provisions of the Municipal Corporations Acts, any buildings or lands which they could not have sold, alienated, encumbered, or demised without that approbation if this Act had not been passed. Consent of Treasury for sales.

III.—STREET IMPROVEMENTS.

13. The Corporation from time to time may make, execute, and maintain, in the lines and according to the levels shown on the deposited plans and sections, the new streets following; (that is to say,) Power to make new streets.

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- (a.) A new street between Standish Gate and School Lane ;
- (b.) A new street between Gidlow Lane and Woodhouse Lane, terminating near the junction of Woodhouse Lane with Springfield Drive ;
- (c.) A new street forming a continuation of Bridgeman Terrace, and terminating in Wigan Lane near the south side of the Infirmary Lodge ;
- (d.) A new street between Miry Lane and the occupation road leading from Woodhouse Lane to Meadow's Farm ;

with all approaches, drains, works, and conveniences necessary or proper in connexion therewith, including a sufficient drain under the street to prevent the flooding of the Wigan Forge.

Not to take lands of Thomas Dicconson without consent.

14. The Corporation shall not enter on, purchase, take, or use for making the proposed new street between Bridgeman Terrace and Wigan Lane, or any deviation thereof, or any approach, drain, work, or convenience in connexion therewith, or for any of the other purposes of this Act, any land now belonging to Thomas Dicconson, of Wrightington Hall in the county of Lancaster, otherwise than by agreement with him, his appointees, heirs, or assigns.

Not to take lands of the Honourable E. Kenyon without consent.

15. The Corporation shall not enter on, purchase, take, or use for any of the purposes of this Act any land now belonging to the Honourable Edward Kenyon, of Maesfen in the county of Salop, otherwise than by agreement with him or with the person or persons for the time being entitled to such lands.

Railway bridge over Miry Lane and land of Lancashire and Yorkshire Railway Company not to be interfered with without consent.

16. In constructing the new road between Miry Lane and the occupation road leading from Woodhouse Lane to Meadows Farm the Corporation shall not take or interfere with the railway bridge carrying the Lancashire and Yorkshire Railway over Miry Lane, and shall not enter upon or take any land belonging to the Lancashire and Yorkshire Railway Company, except in each case with their consent, and upon such terms and conditions as shall be agreed on by the Corporation and the Company in writing under seal.

Power to deviate.

17. In making the new streets the Corporation may deviate from the levels shown on the deposited sections to any extent not exceeding five feet upwards or five feet downwards, and from the lines shown on the deposited plans to any extent within the limits of deviation marked thereon, and beyond those limits with the consent of the owners, lessees, and occupiers of the lands through which a deviation is made, but not otherwise ; but no such deviation from the deposited plans or sections shall be made in the new street between Standishgate and School Lane within one hundred yards of the premises known as the Wigan Forge without

the consent of Henry Park, or other the occupier for the time being of the Wigan Forge. A.D. 1880.

18. Subject to the provisions of this Act, and in accordance with the deposited plans and within the limits of deviation marked thereon, the Corporation, in connexion with the new streets and as part and for the purposes thereof, may make junctions and communications with any existing streets intersected or interfered with by or contiguous to the new streets, and may make diversions, widenings, or alterations of lines or levels of any existing ways for the purpose of connecting the same with the new streets, making compensation in respect thereof according to section 308 of the Public Health Act, 1875. Power to make subsidiary works.

19. If the new streets are not completed within seven years from the passing of this Act, then on the expiration of that period the powers by this Act granted for the making thereof, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed. Period for completion of street improvements.

20. The Corporation after purchasing the lands following or any part thereof; that is to say, Appropriation of lands for street improvements.

- (a.) A piece of land, houses, and buildings known as Ormrod's Warehouse, in the occupation of Messrs. Lever and Company, and situate in Wallgate;
- (b.) A piece of land, houses, and buildings situate in and being Numbers 20, 22, and 24, Belvoir Street;
- (c.) A piece of land, houses, and buildings situate in and being Numbers 32, 33, 34, and 35, John Street, and Number 34, Belvoir Street;
- (d.) A piece of land, houses, and buildings situate in and being Numbers 34 and 36, Orchard Street, and Number 4, Greenough's Yard;

may use those lands and the sites of those warehouse, houses, and buildings or any parts thereof for purposes of the following street improvements or any of them; (that is to say,)

- (1.) The widening and improvement of Wallgate;
- (2.) The opening of a continuation of Anderton Street into Belvoir Street;
- (3.) The opening of a connexion between Higham Street and John Street;
- (4.) The opening of a connexion between Lower Morris Street and Orchard Street;

with all approaches, drains, and conveniences necessary or proper in connexion therewith.

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IV.—PRIVATE IMPROVEMENTS.

Power for Corporation to pave highways for first time at expense of owners, &c.

21. If any street or common back-yard, the houses or buildings wherein have an aggregate frontage of not less than one fourth of its length, is at the passing of this Act not repaired by the Corporation and not well and sufficiently levelled, paved, metalled, flagged, channelled, and made good, then, although the same may at the passing of this Act have become a public highway by user or otherwise, the Corporation may in such manner as they think fit level, pave, metal, flag, channel, and otherwise make good the same or any parts thereof, and may require that the expenses incurred by the Corporation in so doing be repaid to them by the owners of the lands, buildings, or premises abutting on the street or common back-yard or on such parts thereof as aforesaid, and the Corporation may recover the same in a summary manner from the owners by proceedings under the Public Health Act, 1875, or may by order declare the same to be private improvement expenses under that Act.

Thenceforth the street or common back-yard shall be repaired by the Corporation as a public highway.

If any owner deems himself aggrieved by anything done or proposed to be done by the Corporation under this section he may appeal to the quarter sessions for the borough, and the provisions of section 269 (appeal to quarter sessions) of the Public Health Act, 1875, shall, so far as the same are applicable, apply to such appeal.

Provided nevertheless, that this section shall not extend or apply to *Gidlow Lane*, *Platt Lane*, and *Long Shoot* within the borough, or to the owners of the lands, buildings, or premises abutting thereon or on any part thereof, but nothing in this proviso shall be construed to relieve such owners from any liability imposed upon them under the Public Health Acts.

Power for Corporation to charge commission and interest on private improvements.

22. Where, under the Public Health Act, 1875, or under this Act, the Corporation recover or are entitled to recover from the owners of lands, buildings, or premises any expenses incurred by the Corporation in doing any works in relation thereto, or by order declare or are entitled by order to declare any such expenses to be private improvement expenses, the Corporation may in respect of the cost to them of the surveying and superintendence of the works charge the owners with a commission not exceeding the rate of five per centum on the amount of those expenses, and may add the same to those expenses and recover the same therewith or may include the same in the sum so declared, and the sum so recoverable or so declared shall bear interest from the expiration

of one month after demand at a rate fixed by the Corporation, not exceeding five per centum per annum, and such interest shall be recoverable accordingly with that sum. A.D. 1880.

23. The Corporation may from time to time enter into such agreements as they think fit with owners of lands, buildings, or premises, being tenants for life or for other limited interest, or being trustees or committees of estates of lunatics, or being otherwise in a fiduciary relation to the lands, buildings, or premises, or being by the Lands Clauses Acts empowered to sell and convey or release lands, with reference to the making of new streets and the widening, paving, flagging, and otherwise improving of existing streets, and for the repayment to the Corporation of the expenses incurred by them in execution of such agreements at deferred periods or by instalments or otherwise, and all such agreements shall be valid as against and binding on the Corporation, and shall be carried into execution by them, and shall be valid as against and binding on the other parties thereto to the extent of their respective estates and interests in the lands, buildings, or premises affected, and also as against and on their respective successors in title or interest to the extent to which those other parties have power or authority independently of this Act to enter into such agreements so as to bind their successors in title or interest, but not further or otherwise.

Power for Corporation to enter into agreements with tenants for life, &c.

24. In relation to the section of this Act with the marginal note "Power for Corporation to pave highways for first time at expense of owners, &c.," the London and North-western Railway Company and the Lancashire and Yorkshire Railway Company shall not respectively be deemed an owner within the meaning of that section in respect of any approach road leading to the railway station of either company, nor of any viaduct, embankment, cutting, land, building, or premises of either company which abuts upon, but which, owing to the difference in levels, has not any communication for purposes of ordinary traffic with any street or common back-yard referred to in that section.

Protection to the London and North-western and Lancashire and Yorkshire Railway Companies in relation to section 21.

V.—BORROWING.

25. The Corporation may from time to time, independently of any other borrowing power, borrow at interest on the security of the district fund and general district rate, as follows; (that is to say,)

Power for Corporation to borrow.

For the purposes of this Act relating to the purchase of lands for street improvements, and for the execution of those improvements, such sums as the Corporation think necessary, not exceeding twenty-six thousand pounds;

For the purpose of the execution of the powers of the Corporation under section one hundred and fifty-four of the Public

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Health Act, 1875, (that is to say,) for the purpose of the widening, opening, enlarging, or otherwise improving of any street or for the purpose of making any new street (as therein provided), or for defraying expenses incurred for those purposes, sums not exceeding in the whole ten thousand pounds ;

For the purpose of defraying expenses incurred or to be incurred by the Corporation in relation to their water undertaking sums not exceeding in the whole ten thousand pounds ;

For purposes of the Baths and Washhouses Acts sums not exceeding in the whole ten thousand pounds ;

With the sanction of the Local Government Board, for purposes of the gas undertaking of the Corporation sums not exceeding in the whole thirty thousand pounds ;

and may mortgage the district fund and general district rate to secure repayment thereof, with interest accordingly, and may from time to time re-borrow any money so borrowed and paid off otherwise than by a sinking fund or instalments prescribed by this Act.

Power to borrow for private improvement expenses, and to re-apply moneys repaid subject to sinking fund.

26. The Corporation may from time to time, independently of any other borrowing power, borrow and re-borrow at interest on the security of the district fund and general district rate for the purpose of defraying expenses incurred or to be incurred by the Corporation in or about works of private improvement under the Public Health Act, 1875, or other expenses for repayment whereof the owner or other person interested in any land, building, or premises for or in respect of which the same are incurred is made liable under that Act or this Act, or by agreement with the Corporation, any sum or sums of money not exceeding in the whole twenty thousand pounds.

A separate account shall be kept of all moneys borrowed and re-borrowed under this section, and all moneys repaid by owners and others in relation to such private improvement and other expenses shall be either carried to the credit of that account or to the credit of the sinking fund herein-after in this section mentioned, and the Corporation may from time to time apply any moneys so repaid and not carried to the credit of the sinking fund for any purpose for which money originally borrowed under this section might be applied. All moneys borrowed by the Corporation under this section shall be discharged within eighty years after the date of the first borrowing. In order that the Corporation may discharge the moneys borrowed under this section, they shall create a fund in the nature of a sinking fund (and in this section called the sinking fund) by appropriating either out of the district fund or general district rate, or out of moneys repaid by owners and others in relation to such private improvement and other expenses, such equal yearly sums as being

accumulated at compound interest will at the expiration of eighty years amount to the sum of twenty thousand pounds. The first of such yearly payments shall be made within one year from the date of the first borrowing, and the provisions of section 15 (discharge of loan by sinking fund) of the Local Loans Act, 1875, shall apply to the sinking fund created under this section, but if any part of the sinking fund be applied in discharge of moneys borrowed under this section the borrowing power shall be reduced by the amount so discharged.

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38 & 39 Vict.
c. 83.

27. The sum of sixty-two thousand six hundred and sixty-five pounds, the borrowing whereof by the Corporation for the purposes of works of sewerage and sewage disposal is sanctioned by the Local Government Board by an instrument under their seal dated the eighteenth day of March eighteen hundred and seventy-nine, shall, notwithstanding anything in that instrument, be repaid with interest within a period not exceeding eighty years from the date of the borrowing thereof.

Extension
of time for
repayment
of sewerage
loan.

28. The provisions of section eighty-one of the Wigan Improvement Act, 1874, relating to the creation of debenture stock by the Corporation, shall extend and apply to any money borrowed by the Corporation under this Act or under the said instrument of the 18th day of March 1879, and the interest of debenture stock issued by the Corporation under this Act shall rank after the interest and principal of all mortgages granted by the Corporation before and subsisting at the passing of this Act, and equally with the interest, but before the principal, of all mortgages granted by the Corporation under this Act.

Application
of provisions
respecting
debenture
stock.

29. The Corporation shall pay off all money borrowed by them under the powers of this Act (except money borrowed in relation to private improvement expenses, and for which a special sinking fund is provided) by any one or more of the methods, including a sinking fund, mentioned in the Local Loans Act, 1875, with respect to the discharge of loans borrowed in the manner provided by that Act, within the periods following ; (that is to say,)

Payment
of money
borrowed.

As regards money borrowed for purposes of the gas undertaking of the Corporation, within sixty years after the same is borrowed ;

As regards money borrowed for any other purpose of this Act, within eighty years after the same is borrowed ;

and the instalments to be paid or the sums to be carried to the sinking fund shall be such as the Local Government Board, having regard to the provisions of this section, from time to time approve.

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Provision
respecting
sinking fund.

30. Where under any former Act or this Act the Corporation create a sinking fund in order to pay off any money borrowed, they may, notwithstanding anything in any other Act, proceed as follows; (that is to say,) they may accumulate the sums from time to time appropriated to the sinking fund in the hands of the bankers of the Corporation at interest until those sums and interest amount to a sum of five thousand pounds, and thereupon the Corporation shall invest the same from time to time and the resulting dividends or interest thereof in securities in which trustees are by law for the time being authorised to invest, or in mortgages or debenture stock created and issued by the Corporation under this Act or otherwise, which mortgages or debenture stock shall be thereupon forthwith paid off, redeemed, or cancelled, the interest which would otherwise be payable thereon being paid into the sinking fund and accumulated and applied as aforesaid, with power to the Corporation to vary investments into other investments of a like nature.

Annual
Return to
Local Go-
vernment
Board with
respect to
sinking fund.

31. The treasurer shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for any sinking fund under this Act, transmit to the Local Government Board a return in such form and verified in such manner as that Board may from time to time prescribe, showing the amount which has been paid by instalments or invested 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 the same has been invested, and the purposes to which any portion of the moneys invested for the sinking fund or the interest thereof 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 the treasurer shall be liable to a penalty not exceeding twenty pounds. If it appears to the Local Government Board, by such return or otherwise, that the Corporation have failed to pay any instalment or set apart the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund or the interest thereof to any other purposes than those authorised by this Act, the Local Government Board may, by order, direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested or applied by the Corporation as part of the sinking fund, and any such order may be enforced by Mandamus to be obtained by the Local Government Board.

Application
of money
borrowed
for sewerage
purposes.

32. Notwithstanding anything in the Wigan Improvement Act, 1874, any money borrowed by the Corporation under that Act for the purposes of sewerage works authorised by that Act may be applied by them in the purchase of lands and execution of works for sewage purposes under the Public Health Act, 1875.

33. Money borrowed by the Corporation on mortgage or debenture stock under this Act shall be applied only for purposes of this Act to which capital is properly applicable.

34. Nothing in this Act shall prejudicially affect any charge on the borough fund or borough rate, or the district fund or general district rate, or the estates and property of the Corporation, or any of them, by way of annuity, mortgage, debenture stock, or otherwise subsisting at the passing of this Act, and every annuitant, mortgagee, debenture stockholder, or encumbrancer, or person for the time being entitled to the benefit of any such charge, shall have the same priority of charge, and all the like rights and remedies, in respect of the property subject to his charge as if this Act had not been passed, and all such charges created before the passing of this Act shall, during the subsistence thereof, have priority over any mortgage granted under this Act on the same property, and over any debenture stock issued under this Act.

VI.—WATER AND GAS.

35. For preventing the waste, misuse, or contamination of the water of the Corporation, the Corporation from time to time, with the approval of the Local Government Board, may make regulations to be observed by persons supplied or applying to be supplied with the water of the Corporation, and thereby direct the use and prescribe the dimensions, weight, nature, strength, materials, and quality, and the mode of connexion, arrangement, alteration, and repair of any fittings for that supply, and require any fittings to be examined or tested before or during use, and interdict generally or in particular cases the future use or application of any fittings, or the continued use of any existing fittings, not in accordance with such regulations or not examined or tested as thereby required, and provide for the granting on conditions and rescinding of licenses to persons to lay or attach fittings, and to make connexions with the pipes of the Corporation, or with pipes or fittings connected therewith, and prohibit unlicensed persons from laying or attaching fittings and from making such connexions, and require persons by whom or on whose premises fittings are laid, attached, connected, or altered to permit the same to be inspected by the officers of the Corporation before the same are covered up, and to give notice to the Corporation before covering up the same; and the Corporation shall not be bound to begin or continue to supply water to any person unless such regulations as aforesaid are and continue to be observed by him; and if any person supplied with water by the Corporation fails to observe any such regulation or interdict as aforesaid, the Corporation may, after twenty-four hours notice in

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Application of money borrowed.

Saving for existing charges.

Power to make regulations for preventing misuse of water and to license persons to lay fittings, &c.

A.D. 1880. — writing, or in case of emergency without notice, cut off the supply of water to him, and alter, remove, repair, supply, or replace any fittings, and the expenses of their so doing shall be repaid to them by the person to whom or on whose credit the water is supplied, and may be recovered by them as a debt in any court of competent jurisdiction.

Power for Corporation to supply water or gas fittings, &c.

36. The Corporation may, if requested by any person supplied or about to be supplied by them with water or gas, furnish to him, at his expense, and from time to time cleanse, repair, alter, or remove such pipes, valves, meters, cocks, cisterns, baths, soil-pans, waterclosets, apparatus, receptacles, water-fittings, and gas-fittings (as the case may be), and may provide all materials and do all work necessary or proper in that behalf.

VII.—ELECTRICITY.

Electric lighting.

37. With respect to the production and supply of light, heat, and motive power by means of electricity, the following provisions shall have effect; (that is to say,)

(1.) The expression "place of public resort" means any premises belonging to or used by the Corporation, whether as the municipal or as the sanitary authority, and any place of public worship, railway station, public garden, theatre, concert-room, or public slaughter-house :

(2.) During a period of five years from the first day of September one thousand eight hundred and eighty, and for the purposes of lighting streets and places of public resort, but for no other purpose, it shall be lawful for the Corporation within the borough to produce and supply light by means of electricity, and for that purpose to exercise any of the powers herein-after in this section mentioned, and subject to the provisions herein-after in this section contained; (that is to say,)

(I.) For any of the purposes of this section they may use any lands for the time belonging to or held on lease by them, and not by any Act specifically appropriated to any other purpose, or may purchase by agreement and take on lease any lands :

(II.) They may upon any such lands erect and maintain any necessary workshops, engine-house, store-houses, or other buildings necessary for any of the purposes of this section :

(III.) They may manufacture, buy, or hire, and may use and may supply, sell, or let, any machinery, steam-engines, gas-

engines, or other apparatus (including meters and fittings) necessary for the purposes of this section :

(IV.) Subject to the provisions of this section, they may buy any gas or fuel, or buy or rent any other motive power, and may buy or rent and sell or let any materials or articles necessary for the purposes of this section :

(V.) They may acquire licenses (not being exclusive) for themselves, or for any persons, companies, or corporation licensed or supplied by them, for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials, or other things :

(VI.) They may exercise for the purposes of this section, in the whole or any part of the borough, as to electric lighting, any of the powers which are vested in or exerciseable by a corporation or sanitary authority under the Acts relating to municipal corporations or the Public Health Act, 1875, for lighting by oil or gas :

(VII.) They may exercise for the purposes of this section, as to electric lighting, any of the powers which under the provisions of any Act incorporating the Gasworks Clauses Act, 1847, or the Gasworks Clauses Act, 1871, might for the purposes of any gas undertaking be exercised by the undertakers :

10 & 11 Vict.
c. 15.
34 & 35 Vict.
c. 41.

(VIII.) They may supply by agreement for use in any place or places of public resort light produced by electricity, and meters or other fittings, or may let meters or other fittings for any of the purposes of this section :

(IX.) They may charge in advance or otherwise for any light, engines, machines, apparatus, meters, fittings, or other things supplied or let under the powers of this section, such rents or sums as may from time to time be agreed on, and may recover any such rent or sum as a debt in any court of competent jurisdiction :

(X.) Generally they may do all things necessary and incidental to the purposes of this section :

(3.) The provisions of this section shall extend to and in relation to the production and supply by the Corporation of heat or motive power by application of the electricity by which they produce or supply light under the provisions of this section, and such application is included in the expression "electric lighting":

(4.) All expenses from time to time incurred by the Corporation in carrying this section into effect shall be charged on, and

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all receipts received by the Corporation under this section shall be carried to, the credit of the district fund :

(5.) The Corporation may from time to time, for the purposes of this section, borrow at interest on the security of the district fund and general district rates such sum or sums as the Corporation from time to time find requisite, not exceeding in the whole the sum of twenty thousand pounds ; and they may mortgage the said fund and rates as a security for the repayment of money so borrowed, with interest accordingly. The provisions of this Act relating to the borrowing, re-borrowing, and repayment of borrowed moneys shall extend and apply, *mutatis mutandis*, to the moneys borrowed under the powers of this section, except that the period for the repayment of such moneys shall be ten years :

(6.) The Corporation shall keep accounts in respect of electric lighting separate from all their other accounts, and shall in such accounts distinguish their expenditure on revenue or capital account, and shall apply all money from time to time received by them in respect of their electric lighting 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 electric lighting rents and charges, and of the borrowing of money under this section ;

Secondly. In payment of the working and establishment expenses and cost of maintenance of their electric lighting undertaking ;

Thirdly. In payment of the interest on money borrowed under this section ;

Fourthly. In providing the requisite instalments or sinking fund under this section ;

Fifthly. 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 securities in which they are by this Act authorised to invest sinking funds, and accumulating the same at compound interest until the fund so formed amounts to one 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 electric lighting 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 one thousand pounds, and so from time to time as often as such reduction happens ; and shall carry to the district fund any balance remaining in any year, and the annual proceeds of the reserve fund when amounting to one thousand pounds :

- (7.) The money borrowed under this section shall be applied for the purposes for which it is authorised to be borrowed, and generally for objects for which capital money is properly applicable, and for no other purposes :
- (8.) Nothing in this Act shall exempt the Corporation or their electric lighting undertaking from the provisions of any general Act relating to lighting by electricity or other similar means which may be passed in this or any future session of Parliament :
- (9.) Nothing in this Act shall exonerate the Corporation from any indictment, action, or other proceeding for nuisance in the event of any nuisance being caused by them.

38. With respect to any work for the purpose of the production or supply of light, heat, or motive power by electricity done in pursuance of this Act, the following provisions shall have effect :

Provision for protection of the Postmaster-General.

- (1.) It shall not be lawful for the Corporation to do any such work whereby any telegraphic line of the Postmaster-General is or may be injuriously affected ; and before any such work is done within ten yards of any part of a telegraphic line of the Postmaster-General, the Corporation or their agents, not more than twenty-eight nor less than fourteen days before commencing such work, shall give written notice to the Postmaster-General specifying the course and nature of the work, including the gauge of any wire, and the Corporation and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said work :
- (2.) Any difference which arises between the Postmaster-General and the Corporation or their agents with respect to any requirements so made shall be determined by the Board of Trade, whose decision shall be final, and sections thirty to thirty-two, both inclusive, of the Regulation of Railways Act, 1868, shall apply in like manner as if the Corporation or their agents were a company :
- (3.) In the event of any contravention of or wilful non-compliance with this section by the Corporation or their agents, the

31 & 32 Vict. c. 119.

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Corporation shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues, or if the telegraphic communication is wilfully interrupted, not exceeding fifty pounds for every day on which such interruption continues :

(4.) Provided that nothing in this section shall subject the Corporation or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice :

(5.) For the purpose of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such work, or by any use made of such work :

(6.) For the purposes of this section, and subject as therein provided, sections two, eight, nine, ten, eleven, and twelve of the Telegraph Act, 1878, shall be deemed to be incorporated with this Act, as if the Corporation were undertakers within the meaning of those sections, without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted.

41 & 42 Vict.
c. 76.

Protection
of London
and North-
western and
Lancashire
and York-
shire Rail-
way Com-
panies.

39. Any pipes, tubes, wires, or other works to be laid down, set up, or executed in exercise of the powers conferred by this Act or by any Act therein referred to, and enabling the Corporation in that behalf with respect to the production and supply by the Corporation of light, heat, and motive power by means of electricity, as also all repairs and renewals thereof, crossing or in any way affecting any railway, lands, or property now or hereafter belonging to or used or occupied by the London and North-western Railway Company and the Lancashire and Yorkshire Railway Company respectively, or any of the stations or the bridges or other works of any such railway, shall be done under the superintendence and to the reasonable satisfaction of the engineer of such company respectively, and only according to such plans and at such times as shall be reasonably approved by him before any such works are begun, but in all things at the expense of the Corporation, and so as to cause no injury to any such railway, lands, or property, stations, bridges, or works, or interruption to the passage or conduct of traffic on or over any such railway, or at any station thereof; and

[43 & 44 VICT.] *Wigan Improvement Act*, 1880. [Ch. cxxvii.]

if any injury shall arise to any such railway, lands, property, stations, bridges, or works, or interruption to such traffic, the Corporation shall make full compensation to such company respectively in respect of such injury or interruption, the amount of such compensation to be recoverable by the company from the Corporation, with full costs, by all and the same means as any simple contract debt is or may be recoverable.

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VIII.—POLICE AND LOCAL REGULATIONS.

40. The watch committee may, if they think fit, take any sum in respect of the service of a constable employed by their authority, or that of the Corporation, on any special duty for the benefit of any individual or of any body other than the Corporation, and all receipts in respect thereof shall go to the borough fund.

Power to charge for services of constables.

41. Section twenty-eight of the Town Police Clauses Act, 1847, shall be read and have effect as if the following paragraphs were inserted therein ; (that is to say,)

Extension of section 28 of 10 & 11 Vict. c. 89.

Every person who uses any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned :

Every person who engages in or instigates or abets any fight :

Every person who carries the carcase of any slaughtered cattle on the footway :

Every person who, without the consent of the owner or occupier, affixes any posting bill or other paper on any building, wall, fence, or paling :

Every person who writes on, soils, defaces, or marks any building, wall, fence, or paling with chalk or paint or other material, or defaces or injures the name or description of any street, or any name, number, or other inscription on any house or building, or on any door or the signboard of any inn :

Every street musician or singer or other person who sounds or plays any musical instrument or sings near or within hearing of any house, after being requested by the occupier thereof personally or by his servant or by any constable to depart from the neighbourhood thereof :

Every person who writes or describes any profane, obscene, or indecent language or figure on, or who commits any nuisance on or about, any building, wall, gate, door, boarding, fence, or post :

Every common prostitute loitering or being in a street or public place for the purpose of prostitution or solicitation.

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Offences
against
decency, &c.

42. If any person does any of the following things he shall for every such offence be liable to a fine not exceeding forty shillings, or to imprisonment, with or without hard labour, for not exceeding one month; (that is to say,)

Every person who affixes on any building, wall, fence, or other structure, or in a street, highway, or public place delivers or offers to any person any bill or printed or written paper of an obscene or indecent nature:

Every person who in view of any street, highway, or public place does any indecent act, or bathes so as to indecently expose himself.

Prohibition
of gambling
in streets,
&c.

43. It shall not be lawful for any two or more persons, to the obstruction or annoyance of any of the residents or passengers, to assemble or be in any street, open space, vacant ground, or waste land in the borough for the purpose of gambling by means of pitch and toss or any game or otherwise, or to so gamble there; and if any person acts in contravention of this section he shall for every such offence be liable to a fine not exceeding forty shillings, or to imprisonment, with or without hard labour, for not exceeding one month.

Dancing,
music, &c.

44. For the regulation of places for public dancing or music or other entertainment of the like kind, the following provisions shall have effect; (namely,)

- (1.) Any house or other place licensed for the sale of wine, spirits, beer, or other fermented or distilled liquors, or any room, garden, or place, shall not be kept or used for public dancing, music, or other public entertainment of the like kind without a license for all or some of those purposes first obtained from the justices acting for the borough:
- (2.) Such justices may, under the hands of a majority of them assembled at any special session convened by seven days previous notice, grant licenses to such persons as they think fit to keep or use houses, rooms, gardens, or places for all or some of the purposes aforesaid, upon such terms and conditions and subject to such restrictions as they by the respective licenses determine, and every license shall be in force for one year:
- (3.) Such justices may from time to time at any such special session as aforesaid transfer any such license to such person as they think fit:
- (4.) Each person shall in each case give seven days notice to the clerk of the justices of his intention to apply for any such license, or for the transfer of any such license:
- (5.) Any house, room, garden, or place kept and used for public

dancing, music, or other public entertainment of the like kind without such license first obtained shall be deemed a disorderly house, and the person occupying or rated as the occupier of the house shall be liable to a fine not exceeding five pounds for every day on which the same is kept and used for any of those purposes :

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(6.) There shall be affixed and kept up in some conspicuous place on the door or entrance of every house, room, garden, or place so kept or used, and so licensed as aforesaid, an inscription in large capital letters in the words following : " Licensed in pursuance of Act of Parliament " :

(7.) Any house, room, garden, or place so kept or used, although so licensed as aforesaid, shall not be opened for any of the said purposes except between the hours stated in the license :

(8.) The affixing and keeping up of such inscription as aforesaid, and the limitation of the hours of opening, shall be inserted in and made conditions of every such license, and in case of any breach of either of those conditions such license shall be liable to be revoked by the order of any two justices.

45. If any person is brought before a court of summary jurisdiction charged with having in his possession or conveying in any manner any machinery or portion of machinery reasonably suspected of being stolen or unlawfully obtained, and does not explain to the satisfaction of the court how he came by the same, he shall be liable to a fine of not exceeding five pounds, or to imprisonment, with or without hard labour, for not exceeding one month.

Persons suspected of having or conveying stolen machinery.

46. After the expiration of one month from the passing of this Act, no person (other than a licensed pawnbroker) shall carry on the business of a broker or dealer in second-hand furniture, household effects, and clothing, or marine stores unless he has obtained a license in that behalf from the Corporation, which license the Corporation may grant, charging for the same a fee not exceeding five shillings, and the Corporation may from time to time make byelaws for regulating all matters connected with or consequent on the granting of such licenses and the mode of application for the same, and the forms, contents, and duration thereof, and may from time to time repeal or alter any such byelaws, and any such byelaws or licenses granted thereunder may provide for and regulate all or any of the following (among other) matters ; (that is to say,)

Brokers to be licensed.

The painting of the names of the persons licensed on the houses or buildings at which the business is carried on, with words descriptive of the particular business ;

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The entering by persons so licensed in books of the description and particulars of articles, and the addresses and occupations of persons offering the same for sale;

The notices to be given by persons licensed of changes of their places of abode or business, and of the removal or extension of their business to other parts of the same house or building;

The suspension or revocation of licenses by justices on conviction of the persons licensed for offences.

For the purpose of this section a dealer in marine stores shall mean a person dealing in, buying, and selling anchors, cables, sails, or old junk, old iron, metal, scrap metal, broken metal, or partly manufactured metal goods or defaced or old metal goods, or rags and bones, or marine stores of any description.

Power to Corporation to make byelaws for licensing omnibuses, &c.

47. The Corporation may from time to time, in addition to the powers given to them by section eighty-eight of the *Wigan Improvement Act*, 1874, make byelaws for requiring and enforcing the taking out of licenses by persons providing omnibuses and horses, and by drivers and conductors of omnibuses, on payment of fees not exceeding five shillings for each license, and for regulating all matters connected with or consequent on the granting of such licenses, and the mode of application for the same and the forms, contents, and duration thereof, and may from time to time repeal or alter any such byelaws, and any such byelaws or licenses granted thereunder may provide for and regulate all or any of the following (among other) matters; (that is to say,)

The number of passengers to be carried and the space to be allowed for each passenger;

The badges of drivers and conductors;

The examination and inspection of omnibuses;

The production and indorsement of licenses;

The notice of changes of abode to be given by owners;

The painting on omnibuses of names of owners, numbers, and other distinctive marks;

The fares to be charged;

The repairing, ventilating, cleansing, and lighting (inside and outside) of omnibuses;

The stands for omnibuses and the times of remaining thereat and of departure therefrom;

The deposit and restoration of property left in omnibuses;

The regulation of routes of omnibuses on public occasions or in case of any large assembly of persons.

In section eighty-eight of the *Wigan Improvement Act*, 1874, and in this section, the term "omnibus" includes any stage carriage or other vehicle taking passengers at separate fares.

[43 & 44 VICT.] *Wigan Improvement Act*, 1880. [Ch. cxxvii.]

Provided always, that no byelaws made under this section with respect to stands for omnibuses shall apply to any private ground or within the curtilage or boundary of any railway station or station approaches connected therewith. A.D. 1880.

48. The Corporation may from time to time, with respect to highways in the borough, make, and when made, alter or repeal, byelaws for all or any of the purposes for which a county authority under the Highways and Locomotives (Amendment) Act, 1878, may by virtue of that Act make byelaws with respect to highways in their county, but subject to the like confirmation as is required for such last-mentioned byelaws. Power for Corporation to make byelaws with respect to vehicles, gates, locomotives, &c. 41 & 42 Vict. c. 77.

IX.—MISCELLANEOUS.

49. The following provisions of the *Wigan Improvement Act*, 1874, shall be read and have effect as extending and applying to the purposes and provisions of this Act as if they were here re-enacted, for which purpose the term "this Act" where used in those provisions may be interpreted as including the present Act; (that is to say,)

Section ninety-one (provision as to byelaws) :

Section ninety-two (proceedings for summary convictions and appeals), subject nevertheless to the provisions of the Summary Jurisdiction Act, 1879, as amended or extended by any other 42 & 43 Vict. c. 49.

Act passed or to be passed and for the time being in force :

Section ninety-three (form and service, &c. of notice).

50. The costs, charges, and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act shall be paid by the Corporation in the first instance out of the borough fund, and ultimately out of money borrowed under this Act. Expenses of Act.