



CHAPTER lvii.

An Act to extend the time for the construction of certain waterworks authorised by the Heywood Waterworks Act 1877 and to make better provision for the health local government and improvement of the borough of Heywood and for other purposes. A.D. 1889.
[5th July 1889.]

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

And whereas the Corporation are the sanitary authority for the borough with the powers and obligations of an urban sanitary authority and have divers other powers under the following Local Acts and Public Acts of a local character (that is to say):

The Heywood Waterworks Amendment Act 1855;

The Heywood Gas Amendment Act 1856;

The Heywood Waterworks (Amendment) Act 1866;

The Heywood Improvement Act 1867;

The Heywood Waterworks Act 1877;

The Heywood Corporation Act 1883;

The Local Government Board's Provisional Orders Confirmation (Castleton-by-Rochdale &c.) Act 1879;

The Local Government Board's Provisional Orders Confirmation (No. 11) Act 1888;

each of which Acts is in this Act referred to as the Act of the year in which it was passed and the said Acts are collectively referred to as the recited Acts:

And whereas the Corporation are the owners of the waterworks which supply the borough and neighbourhood with water:

And whereas it is expedient that the time limited for the construction of certain waterworks authorised by the Act of 1877 be extended and that the Corporation be empowered to borrow further moneys for waterworks purposes:

A.D. 1889.

And whereas it is expedient that the Corporation be empowered to contribute towards the expenses of improving or diverting the road from Heywood to Manchester and to borrow money for that purpose :

And whereas it is expedient that the powers of the Corporation in relation to the health local government and improvement of the borough should be enlarged and that the recited Acts should be in divers respects amended :

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

And whereas estimates have been prepared by the Corporation for the execution of waterworks amounting to twenty-five thousand pounds :

And whereas the works included in such estimates are permanent works within the meaning of section 234 of the Public Health Act 1875 :

And whereas the Corporation have not yet exercised the power of creating and issuing Corporation stock under the powers of the Act of 1883 :

And whereas an absolute majority of the whole number of the council at a meeting held on the fifteenth day of November one thousand eight hundred and eighty-eight after ten clear days notice by public advertisement of the meeting and of the purpose thereof in the Heywood Advertiser 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 revenue of the water undertaking of the Corporation and the district fund and general district rate :

And whereas that resolution was published twice in the said Heywood Advertiser and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the twenty-third day of January one thousand eight hundred and eighty-nine being 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 by the authority of the same as follows (that is to say):

PART I.—PRELIMINARY.

1. This Act may be cited as the Heywood Corporation Act 1889. Short title.

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

Division of
Act into
parts.

PART I.—Preliminary.

PART II.—Water.

PART III.—Streets Sewers and Buildings.

PART IV.—Borrowing Powers and Rates.

PART V.—Annuities.

PART VI.—Miscellaneous Provisions.

3. In this Act unless the context otherwise requires—

Interpreta-
tion of terms.

“The borough” means the borough of Heywood in the county of Lancaster:

“The Corporation” means the mayor aldermen and burgesses of the borough:

“The council” “the town clerk” “the borough surveyor” or “the surveyor” mean respectively the council town clerk and borough surveyor of the borough:

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

“Daily penalty” means a penalty to accrue for each day any offence shall continue after conviction:

“Place of public resort” means a building used or constructed or adapted to be used either ordinarily or occasionally as a church chapel or other place of public worship or as a college or school (not being merely a dwelling-house so used) or as a theatre public hall public concert room public ball room public lecture room or public exhibition room or as a public place of assembly for persons admitted thereto by tickets or by payment or used or constructed or adapted to be used either ordinarily or occasionally for any other public purpose but shall not include a private dwelling-house used occasionally or exceptionally for any of those purposes:

“The Municipal Corporations Act” means the Municipal Corporations Act 1882 and any Act amending the same:

A.D. 1889.

“The Public Health Act” means the Public Health Act 1875 and any Act amending the same :

“Person” includes a corporation :

The several words and expressions to which meanings are assigned by the Public Health Act have in this Act the same respective meanings unless there is something in the subject or context repugnant to such construction or some other meaning is by this Act assigned to any such word or expression : And the expression “superior courts” or “court of competent jurisdiction” or any other like expression shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not debt or demand created by statute.

Execution of Act.

4. This Act shall be carried into execution by the Corporation acting by the council with all the powers privileges duties and obligations of the Corporation as a municipal authority and as an urban sanitary authority respectively.

PART II.—WATER.

Extension of time for construction of water-works.

5. The period limited by the Act of 1877 for the construction and completion of the reservoir No. 1 and the necessary and proper works and conveniences connected therewith described or referred to in section 4 of that Act is by this Act extended and those water-works may be constructed and completed within ten years from the passing of this Act; and on the expiration of that period the powers conferred on the Corporation for making those waterworks or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Part II. (extension of time) of the Railways Clauses Act 1863 is hereby incorporated in this Act and shall for the purposes of this Act be read and have effect as if the expression “railway and works” included the said reservoir works and conveniences and as if the expression “company” included the Corporation.

PART III.—STREETS SEWERS AND BUILDINGS.

Rooms over privies not to be used as dwelling or sleeping rooms.

6. No room built before or after the passing of this Act of which any portion extends immediately over any privy (not being a watercloset) cesspool midden or ashpit or immediately over any cow byre or other place in which cows are kept and which is not effectually separated from such room to the satisfaction of the Corporation shall be occupied as a dwelling or sleeping or work room or place of habitual employment of any person in any manufacture trade or business during any portion of the day or night and no

person shall after the expiration of one month after the passing of this Act knowingly occupy or suffer to be occupied as a dwelling or sleeping or work room any such room. Any person offending against the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

A.D. 1889.

7. The deposit with the Corporation of any plan of any new street or building shall be void if the execution of the work specified in such plan be not commenced within the following periods (that is to say):

Deposit of plan to be void after certain interval.

As to plans deposited after the passing of this Act within three years from the date of such deposit; and

As to plans deposited before the passing of this Act within three years from the passing of this Act;

and at the expiration of those respective periods fresh deposits shall unless the Corporation otherwise determine be required.

8. The Corporation may from time to time by writing under the hand of the town clerk authorise the erection in any street repairable by the inhabitants at large or public place of any statue fountain cabman's rest or shelter and may repair and maintain the same and charge the expenses thereof upon the general district rate.

Erection of statues fountains &c.

9. With respect to the repairing or enclosing of dangerous places the following provisions shall have effect (namely):

Dangerous places to be repaired or enclosed.

(1.) If any building wall steps structure or other thing or any well excavation or reservoir pond stream or dam of water or any bank thereof or any land or place is in the opinion of the Corporation for want of sufficient repair protection or enclosure dangerous to the occupiers thereof or to the neighbouring buildings or lands or to the passengers along any street or footpath the Corporation may order the owner within the period specified in such order to repair remove protect or enclose the same so as to prevent any danger therefrom.

(2.) If after service of the order on the owner he shall neglect to comply with the requirements thereof within the prescribed period the Corporation may cause such works as they think proper to be done for effecting such repair removal protection or enclosure and the expenses thereof shall be payable by the owner and may be recovered in any court of competent jurisdiction.

10. Every building which had not been before or at the passing of this Act used as a place of public resort but which shall after the

Means of ingress to and egress

A.D. 1889.

from places
of public
resort.

passing of this Act be so used shall to the satisfaction of the Corporation be substantially constructed and supplied with ample safe and convenient means of ingress and egress for the use of the public regard being had to the purposes for which such building is intended to be used and to the number of persons likely to be assembled at any one time therein and no such building shall at any time be used as a place of public resort unless the provisions of this section shall have been complied with and the means of ingress and egress to and from such building shall be during the whole time that such building shall be so used as available and unobstructed as the Corporation shall require and whenever any building shall be used as a place of public resort contrary to the provisions of this section the occupier or person in charge thereof and where such place is let for any period less than one year the owner thereof as well shall be deemed to have committed an offence against the provisions of this section. Every person who shall offend against the provisions of this section shall for every such offence be liable to a penalty not exceeding twenty pounds.

Safety of
platforms
erected or
used on
public
occasions.

11. Whenever large numbers of persons are likely to assemble on the occasion of any public procession open-air meeting or other like occasions every building platform balcony or other structure or part thereof let or used or intended to be let or used for the purpose of affording sitting or standing accommodation for a number of persons shall be safely constructed or secured to the satisfaction of the surveyor and unless the same be so constructed or secured the section of this Act whereof the marginal note is "dangerous places to be repaired or enclosed" shall be applicable to such building platform or other structure and may be put in full force accordingly.

Placing
matters in
sewers so as
to affect
run of water.

12. It shall not be lawful for any person to throw or to suffer or permit to be thrown or to pass into any drain or sewer any matter or substance which would interfere with the free flow of the sewage or surface or storm water or which would be injurious to the construction of the drains or sewers and every person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Power to
contribute to
improvement
of road to
Manchester.

13. The Corporation may (with the consent of the Local Government Board) from time to time contribute such moneys as they think desirable towards the expense of making and maintaining improvements in or a deviation of the road from Heywood to Manchester or of making and maintaining a new road in lieu thereof and the Corporation may enter into and carry into effect agreements with the County Council of Lancashire or with any local or road

authority or landowner respecting the application of any moneys so contributed and otherwise in relation to the improvement diversion making or maintenance of such road and the Corporation may borrow the amount of any such contribution subject and according to the provisions of the Public Health Act as if the same were purposes of that Act.

A.D. 1889.

PART IV.—BORROWING POWERS AND RATES.

14. (1) The Corporation may from time to time independently of any other borrowing power borrow at interest any sum or sums of money not exceeding in the whole the sum of twenty-five thousand pounds for and in connexion with the enlargement of their middle storage reservoir at Naden and for the payment of the costs of this Act as herein-after provided and with the approval of the Local Government Board such further moneys as may be necessary for the completion extension or improvement of their waterworks.

Power to borrow.

(2) In order to secure the repayment of the moneys borrowed under this section the Corporation may mortgage or charge the district fund and the general district rate and the revenue of their water undertaking or either of those securities.

(3) In regard to any moneys borrowed with the approval of the Local Government Board that Board may direct any inquiries to be held by their inspectors which they may deem necessary for giving effect to any of the provisions of this section and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act.

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

15. The Corporation may raise all or any sums which they are authorised to borrow under this Act either by mortgage or by the creation and issue of adequate amounts of Corporation redeemable stock authorised by the Act of 1883.

Mode of raising moneys.

16. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section 234 of the Public Health Act and in calculating the amount which the Corporation may borrow under that Act any sums which they may borrow under this Act shall not be reckoned.

Certain regulations of Public Health Act as to borrowing not to apply

A.D. 1889.

Provisions
of Public
Health Act
as to mort-
gages to
apply.

Repayment
of money
borrowed.

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

Section 236. Form of mortgage.

Section 237. Register of mortgages.

Section 238. Transfer of mortgages.

Section 239. Receiver may be appointed in certain cases.

18. The Corporation shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as the prescribed periods) following (that is to say) :

As to moneys borrowed for the payment of the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing this Act within ten years from the date of the borrowing of the same :

As to moneys borrowed for waterworks purposes within the limit of twenty-five thousand pounds within sixty years from the date or dates of the borrowing of the same respectively :

As to moneys borrowed for waterworks purposes with the approval of the Local Government Board within such period as that Board may think fit to sanction.

Mode of
repayment
of money
borrowed:

19. The Corporation shall pay off all moneys borrowed by them on mortgage under the powers of this Act by any one or more of the methods mentioned in the Local Loans Act 1875 and sections 13 14 and 15 of that Act are hereby incorporated with this Act and shall apply accordingly: Provided that any moneys for the time being standing to the credit of any sinking fund created in pursuance of this section may be invested upon any statutory securities as defined by the Act of 1883 except statutory securities of the Corporation.

Power to
re-borrow.

20. If the Corporation pay off any moneys borrowed by them under this Act otherwise than by instalments appropriations or annual repayments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the prescribed period and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Corporation with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such re-borrowing.

Protection
of lender
from inquiry.

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

22. Moneys borrowed or raised by the Corporation under this Act shall be applied only to the several purposes in respect of which they were respectively borrowed or raised and to which capital is properly applicable.

A.D. 1889.
Application
of money
borrowed.

23. The town clerk 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 any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the town clerk shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act in a summary manner may be recovered by parties aggrieved within the meaning of that Act. If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court of Justice and the provisions of this section shall apply mutatis mutandis to appropriations and annual re-payments.

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

24. Nothing in this Act shall prejudicially affect any charge on the revenue and rates or the estates and property of the Corporation subsisting at the passing of this Act and every mortgagee 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 revenue rate and 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

Saving for
existing
charges.

A.D. 1889. — priority over any mortgage or charge granted under this Act on the same revenue rate and property.

Power to create irredeemable stock repealed.

25. The power conferred upon the Corporation by the Act of 1883 to create and issue irredeemable stock is hereby repealed.

PART V.—ANNUITIES.

Annuities by post.

26. (1) Where the owner of an annuity desires to have the warrant or order for the half-yearly payments of his annuity sent to him by post he may make a request for that purpose to the Corporation in writing signed by him in a form approved by the Corporation and shall give to the Corporation an address in the United Kingdom or in the Channel Islands or the Isle of Man to which the letters containing the warrants or orders are from time to time to be sent.

(2) The posting by the Corporation of a letter addressed to the holder of an annuity at his request at the address so given by him containing a warrant or order for the half-yearly payment of his annuity shall as respects the liability of the Corporation be equivalent to the delivery of such warrant or order to the holder himself.

(3) Every warrant or order shall be deemed a cheque and the Corporation shall in relation thereto be deemed a banker within the Bills of Exchange Act 1882.

Joint holders of annuities.

27. (1) Where more persons than one are registered as joint holders of an annuity any one of them may give an effectual receipt for any half-yearly payment of such annuity unless notice to the contrary be given to the Corporation by any other of them.

(2) The provisions of this Act in regard to payments by post may be exercised by joint holders provided that the name and address of only one of such joint holders be given for the transmissions of the warrant or order for the half-yearly payments.

PART VI.—MISCELLANEOUS.

As to appeal.

28. Any person deeming himself aggrieved by any order determination or requirement or the withholding of any approval of the Corporation or of any officer of the Corporation or by any conviction or order made by a court of summary jurisdiction under any provision contained in Part III. (Streets Sewers and Buildings) of this Act may appeal to the next practicable court of quarter sessions subject and according to the provisions of the Summary Jurisdiction Acts.

29. Offences against this Act and penalties forfeitures costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may unless otherwise provided be prosecuted and recovered in a summary manner.

A.D. 1889.
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Recovery of penalties &c.

30. For the purposes of section 259 (appearance of local authorities in legal proceedings) of the Public Health Act 1875 and for the purposes of the recited Acts and this Act the superintendent of police or any inspector of police acting within the borough shall be deemed an officer of the Corporation and may if authorised by resolution of the council institute and carry on any proceedings which the Corporation are authorised to institute and carry on under the Public Health Act the recited Acts or this Act. Any such authority may be either general or in respect of any special proceedings.

Police constables deemed officers of the Corporation for certain purposes.

31. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or the House of Commons shall be paid by the Corporation out of the revenue of the water undertaking of the Corporation or the district fund and general district rate or out of moneys to be borrowed under the provisions of this Act.

Costs of Act.

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