

[61 & 62 VICT.] *Wath-upon-Dearne Urban* [Ch. ccxxxviii.]
District Council (Water) Act, 1898.



CHAPTER ccxxxviii.

An Act to provide for the sale and transfer of the undertaking of the West Melton Waterworks Company Limited to the Wath-upon-Dearne Urban District Council and to confer further powers on the said Council with reference to the supply of water and for other purposes. A.D. 1898.

[12th August 1898.]

WHEREAS the district of Wath-upon-Dearne in the West Riding of the county of York is an urban district within the meaning of the Local Government Act 1894 and is under the management and control of the Wath-upon-Dearne Urban District Council (herein-after called "the Council") :

And whereas the West Melton Waterworks Company Limited (in this Act called "the Company") was formed in or about the year one thousand eight hundred and fifty-eight for the purpose of supplying with water the parish of West Melton and the surrounding district and such Company was duly registered under the Companies Act 1862 :

And whereas the present share capital of the Company consists of ten thousand pounds divided into eight thousand eight hundred ordinary shares of one pound each and two hundred and forty preference shares of five pounds each of which shares five thousand eight hundred ordinary shares and two hundred and forty preference shares have been subscribed and are fully paid up and the Company have no mortgage debt :

And whereas the Company have constructed waterworks and are supplying with water the district of the Council and a portion of the parish of Brampton Bierlow :

And whereas it is expedient that the water supply of the district should be under the control of the Council and that the undertaking of the Company should be transferred to and vested in the Council in manner provided by this Act :

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And whereas it is expedient that the agreement between the Council and the Company as set forth in the Second Schedule to this Act should be confirmed :

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

And whereas estimates have been prepared by the Council showing that they may require to borrow sums of money for or in connexion with the purchase of the waterworks and other the undertaking of the Company being permanent works within the meaning of section 234 of the Public Health Act 1875 and it is expedient that the Council should be empowered to borrow money for those purposes :

And whereas an absolute majority of the whole number of the Council at a meeting held on the ninth day of November one thousand eight hundred and ninety-seven after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Mexbrough and Swinton Times a local newspaper published or circulating in the district of the Council such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the district fund and general district rate :

And whereas such resolution was published twice in the Sheffield Daily Telegraph a newspaper published and circulating in the district 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 nineteenth day of January one thousand eight hundred and ninety-eight being not less than fourteen days after the deposit of the Bill for this Act in Parliament :

And whereas the owners and ratepayers of the district 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) :—

Short title.

1. This Act may be cited as the *Wath-upon-Dearne Urban District Council (Water) Act 1898.*

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

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—
Incorporation of
general Acts.

The Lands Clauses Acts (except the provisions with respect to the purchase and taking of lands otherwise than by agreement the entry upon lands and the sale of superfluous lands) :

The Waterworks Clauses Act 1847 as amended by section 57 of the Public Health Act 1875 (except the provisions thereof with respect to the amount of profit to be received by the Undertakers when the waterworks are carried on for their benefit and except section 83 relating to accounts) but that Act shall be read and have effect as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted from section 44 :

The Waterworks Clauses Act 1863.

3. The several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned shall in this Act have the same respective meanings unless there is something in the subject or context repugnant to such construction Provided that in the Acts wholly or partially incorporated with this Act for the purposes of this Act—

Interpretation.

The expressions "the Undertakers" and "the Company" mean the Council :

And in this Act unless the context otherwise requires—

The expression "the undertaking of the Company" includes all the waterworks engines mains pipes and machinery lands and buildings plant fixed and moveable stock-in-trade stores and all other the real and personal property assets and effects of whatever nature and all the rights powers and privileges vested in or belonging to or had or enjoyed by the Company at the date of the transfer of the undertaking of the Company to the Council under the provisions of this Act except the books and papers relating exclusively to the shareholders in and the constitution of the Company ;

"The appointed day" means the thirtieth day of September one thousand eight hundred and ninety-eight ;

"The district" means the urban district of Wath-upon-Dearne ;

"The district fund" and "general district rate" mean respectively the district fund and the general district rate of the district.

4. The agreement dated the tenth day of May one thousand eight hundred and ninety-eight and made between the Company of the one part and the Council of the other part as set forth in the

Agreement
between
Company
and Council
confirmed.

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A.D. 1898. — Second Schedule to this Act is hereby subject to the provisions of this Act ratified and confirmed and made binding on both parties thereto and may and shall be carried into effect according to the true intent and meaning thereof.

Transfer of undertaking by deed. 5. The sale of the undertaking of the Company shall be carried into effect and evidenced by a deed which 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.

Receipt for purchase money. 6. The receipt in writing of three directors of the Company for any money paid to the Company by the Council shall effectually discharge the Council from the sum which in such receipt shall be acknowledged to have been received and from being bound to see to the application thereof and from being answerable or accountable for the loss misapplication or non-application thereof. Provided that if from any cause the Council are unable to obtain such receipt they may pay the money into the Bank of England in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Council by the cashier of the said bank for the money which shall have the same effect as the receipt of such three directors.

Transitory provisions. 7. The Company and the directors thereof shall have and may exercise after the appointed day until the Company shall be dissolved all such rights and powers of the Company existing on the appointed day as may be requisite for ascertaining and enforcing payment of all debts or moneys which on that day shall be due to the Company.

Pending actions. 8. If on the appointed day any action arbitration or proceeding or any cause of action arbitration or proceeding is pending or existing against or in favour of the Company the same shall not abate or be discontinued or in anywise prejudicially affected by reason of the transfer or of anything in this Act but the same may be continued prosecuted and enforced against or in favour of the Council as and when it might have been continued prosecuted and enforced against or in favour of the Company if this Act had not been passed but not further or otherwise.

With respect to agreement with Deerne Valley Waterworks Company. 9. Whereas the Deerne Valley Waterworks Company at present supply water in bulk to the Company under an agreement dated the twenty-first day of February one thousand eight hundred and eighty and the Company are under that agreement bound to take all water which cannot be yielded by their then works from the Deerne Valley Waterworks Company the following provisions shall

unless otherwise agreed in writing between the Council and the Dearne Valley Waterworks Company be in force and have effect in lieu of the provisions of the said agreement (that is to say):—

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- (1) The Council shall take all water which cannot be yielded by the works of the Company as existing at the date of the aforesaid agreement from the Dearne Valley Waterworks Company at sixpence per one thousand gallons by meter:
- (2) The Council shall take any water which they require for supply to their district at a greater elevation than three hundred feet above Ordnance datum in bulk from the Dearne Valley Waterworks Company at sevenpence per thousand gallons:
- (3) The Council shall give forty-eight hours' notice to the said Dearne Valley Waterworks Company of any proposed increase in the quantity of water for the time being to be taken by the Council and twelve hours' notice of any proposed decrease in any such quantity:
- (4) The Dearne Valley Waterworks Company shall supply water in bulk at the point at which it is now supplied to the Company:
- (5) The Council shall not construct any further works for obtaining an additional supply of water than those belonging to the Company at the date of the said agreement:
- (6) The Dearne Valley Waterworks Company shall have power to lay mains through the townships of Wath-upon-Dearne and Brampton Bierlow to their other districts.

10. All agreements contracts conveyances deeds and other instruments affecting the Company and in force at the appointed day shall after the passing of this Act be as binding and of as full force and effect against or in favour of the Council and may be enforced as fully and effectually as if instead of the Company the Council had been a party thereto Provided that the rent payable by the Council under the lease dated the fourteenth day of June one thousand eight hundred and eighty-seven and made between the Right Honourable William Thomas Spencer Earl Fitzwilliam K.G. of the one part and the Dearne Valley Waterworks Company of the other part shall be the maximum rent provided for by that lease namely twenty-one pounds.

Contracts of
Company to
be binding
on Council.

11. All debts rents charges and sums of money which at the appointed day are due or owing to or from the Company shall be paid discharged settled and satisfied or received by the Council.

Company's
debts to be
paid and
received.

12. Subject as herein-after provided all books plans and documents in the possession of the Company which are necessary

Vesting of
books in
Council.

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for the conduct of the business of the Company (but not including the minute books of proceedings of shareholders directors or committees or any books or plans or documents which are not reasonably necessary for the purposes of the Council as owners of the Company's undertaking) shall on and after the appointed day be transferred to the Council:

Provided that all books plans and documents which may be required for the purposes of making up the accounts of the Company and of the winding up and dissolution of the Company may be retained by the Company until such winding up and dissolution is completed when they are to be handed to the Council who by their officers and servants are in the meantime to be allowed access thereto at all reasonable times and that the directors solicitors and agents of the Company shall for the purposes of making up the accounts of the Company and of winding up and dissolving the Company and of the proceedings connected therewith have access at all reasonable times to all other books plans and documents which shall be transferred to the Council:

Any difference which may arise between the Company and the Council as to the custody of any books or documents belonging to the Company or the inspection thereof shall be settled by some person to be nominated in that behalf by the President for the time being of the Local Government Board and the decision of the person so nominated shall be final. The costs of any such settlement or of any inquiry in connexion therewith shall be borne and paid by the Council.

Books &c.
to remain
evidence.

13. All documents books and writings which if the transfer had not been made would have been receivable in evidence in respect of any matter for or against the Company shall be admitted in evidence in respect of the same and the like matter for or against the Council.

Copy of Act
to be regis-
tered.

14. The Council shall forward to the Registrar of Joint Stock Companies a printed copy of this Act and it shall be recorded by him and if such copy is not so forwarded within three months from the passing of this Act the Council shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the copy is omitted to be forwarded and every such penalty shall be recoverable summarily.

Power to
take addi-
tional land
by agree-
ment.

15. The Council may for any of the purposes of their water undertaking purchase by agreement any lands not exceeding one hundred acres but the Council shall not create or permit the creation

or continuance of any nuisance on any such lands or use such lands for any building except offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their waterworks. A.D. 1898.

16. 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 Council any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges as far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively. Power to take easements &c. by agreement.

17. The Council on selling any lands acquired by them in connexion with their water undertaking and not required for that purpose may reserve to themselves all or any part of the water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit. Reservation of water rights &c. on sale.

18. The Council may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of preventing the fouling of any water which they are authorised to take or for the protection of their waterworks against nuisances encroachment or injury and so long as such lands shall be so held they shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts but the Council shall not create or permit the creation or continuance of any nuisance on any such lands nor erect any buildings upon the lands while so held by them except offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their waterworks. Power to hold lands for protection of works.

19. The Council shall not under the powers of this Act take ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but which have been or shall be subsequently so occupied: Restriction on taking houses of labouring class.

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For the purposes of this section the expression "labouring class" means and includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Maintenance of waterworks.

20. Subject to the provisions of this Act the Council may maintain renew extend and repair the reservoirs mains pipes and other waterworks for the time being belonging to them by virtue of this Act or otherwise and may sell and supply water in accordance with the provisions of this Act and the Council may make and maintain all proper embankments dams sluices weirs outlets overflows washouts bridges roads approaches wells tanks basins gauges filter beds discharge pipes adits shafts tunnels aqueducts cuts channels conduits drains mains pipes junctions valves telegraphs telephones and other means of electric communication engines apparatus houses buildings and conveniences connected with or ancillary to the said waterworks or any of them or necessary for inspecting maintaining repairing cleansing managing working and using the same :

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

Limits of Act.

21. The limits of this Act for the supply of water shall be the district and that portion of the parish of Brampton Bierlow which lies to the north and east of a line drawn fifty feet west of Packman Road from Birtcliffe Bank to the Three Lane Ends at Melton Green thence to the road at Counting Houses and thence fifty feet south-west of Smithy Bridge Lane leading to Smithy Bridge and which is coloured blue on the plan signed by William Hallatt on behalf of the Council and Joseph Hewitt on behalf of Earl Fitzwilliam a copy of which plan has been deposited with the clerk of the Council.

Dearne Valley Waterworks Company not to supply water within

22. Section 8 of the Dearne Valley Waterworks Act 1880 the marginal note of which is "Company not to supply water within certain places without consent" shall be read and have effect as if the Council had been mentioned therein instead of the Company and the limits of this Act for the supply of water had been

mentioned therein instead of the townships of Wath-upon-Dearne and Brampton Bierlow and nothing in the said Act contained shall authorise the Company by that Act incorporated to supply water within the district of the Council without the consent in writing of the Council under their common seal.

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district of
Council.

23. For a period not exceeding twelve months from the passing of this Act the water supplied by the Council need not be constantly laid on under a pressure greater than that to be afforded by gravitation from the existing reservoir of the Company.

Limit of
pressure.

24. The Council shall at the request of the owner or occupier of any dwelling-house or part of a dwelling-house entitled under the provisions of this Act to demand a supply of water for domestic purposes furnish to such owner or occupier a sufficient supply of water for domestic purposes at rates not exceeding the rates per annum herein-after specified (that is to say):—

Rates for
supply of
water for
domestic
purposes.

Where the gross rateable value of the premises so supplied with water does not exceed seven pounds the sum of twopence halfpenny per week;

Where such rateable value exceeds seven pounds and does not exceed nine pounds the sum of threepence per week;

Where such rateable value exceeds nine pounds and does not exceed eleven pounds the sum of threepence halfpenny per week;

Where such rateable value exceeds eleven pounds and does not exceed thirteen pounds the sum of fourpence per week;

Where such rateable value exceeds thirteen pounds and does not exceed sixteen pounds the sum of fourpence halfpenny per week;

Where such rateable value exceeds sixteen pounds and does not exceed twenty pounds the sum of fivepence per week;

Where such rateable value exceeds twenty pounds the charge shall be at the rate of one shilling and one penny halfpenny in the pound per annum:

The rateable value of any such premises as aforesaid shall be the gross rateable value as ascertained by the valuation list in force at the commencement of the quarter for which the rate accrues or if there is no such list in force by the last rate made for the relief of the poor. Provided that where the water rate is chargeable on the rateable value of a part only of any hereditament entered in the valuation list such rateable value shall be a fairly apportioned part of the rateable value of the whole tenement ascertained as aforesaid the apportionment in case of dispute to be ascertained by a court of summary jurisdiction.

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Rates for
waterclosets
and baths.

25. In addition to the foregoing charges the Council may charge in respect of every watercloset beyond the first on any premises within the limits of this Act a sum not exceeding ten shillings per annum and for every fixed bath containing as usually filled for use not more than fifty gallons a sum not exceeding ten shillings per annum and for every fixed bath capable of containing more than fifty gallons such sum as the Council may think fit such additional sums to be paid quarterly in advance and to be recoverable in all respects with and as the water rate.

Notice
of discon-
tinuance.

26. A notice to the Council from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing and be sent by post to or left at the office of the Council.

Incoming
tenant not
to be liable
for arrears
of water
rate except
by agree-
ment.

27. If any water consumer leave the premises to which water has been supplied without paying to the Council the water rate or charges due from him the Council shall not require from the next tenant of the premises payment of the arrears so left unpaid by the defaulting consumer unless the incoming tenant shall have agreed with the Council or with the defaulting consumer to pay the arrears but the Council shall supply water to the incoming tenant upon the terms and conditions prescribed by this Act if required by him so to do.

Rate payable
by owners
for small
houses.

28. Where the rateable value of a house supplied with water does not exceed ten pounds or the house is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall pay the rate for the supply but the rate may be recovered in the first instance from the occupier and may be deducted by him from the rent from time to time due from him to the owner Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to a notice to pay the rate being given to him or left at his dwelling-house.

Byelaws
for prevent-
ing waste &c.
of water.

29. For preventing waste misuse undue consumption or contamination of the water of the Council the following provisions shall have effect (that is to say) :—

- (1) The Council may make byelaws for the purpose of preventing the waste undue consumption or misuse or contamination of water and may by such byelaws prescribe the size nature materials workmanship and strength and the mode of arrangement connexion disconnexion alteration and repair of the pipes meters cocks ferrules valves soil-pans waterclosets baths

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tanks cisterns and other apparatus fittings means contrivances receptacles or appliances whatsoever to be used and forbid any arrangements and the use of the several things before mentioned or any or either of them which may allow or tend to waste or undue consumption misuse erroneous measurement or contamination :

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(2) Such byelaws shall apply only in the case of premises to which the Council are bound to afford and do in fact afford or are prepared on demand to afford a constant supply and all byelaws made by the Council under this section shall be made under and according to the provisions with respect to byelaws contained in sections 182 to 186 (except so much thereof as relates to byelaws made by a rural sanitary authority) of the Public Health Act 1875 :

(3) In case of failure of any person to observe such byelaws as are for the time being in force the Council may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any pipe meter valve cock ferrule tank cistern bath soil-pan watercloset or other apparatus means contrivance or receptacle fittings or appliances belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be repaid to the Council by the person on whose credit the water is supplied and may be recovered by them as water rates are recoverable.

30. The Council may if requested by any person supplied or about to be supplied by them with water furnish to him and from time to time repair or alter any such pipes valves cocks cisterns baths meters soil-pans waterclosets apparatus and receptacles as are required or permitted by their byelaws and may provide all materials and do all work necessary or proper in that behalf and the reasonable charges of the Council in providing such materials and executing such work shall be paid by the person requiring the same.

Council may on request repair pipes fittings &c.

31. The Council may supply water for other than domestic purposes on such terms and conditions as the Council think fit and may by agreement with any consumer supply water by measure either for domestic or other purposes and the moneys payable for the supply of water under this section shall be recoverable in the same manner as rates due to the Council for water Provided always that no person shall be entitled to a supply of water for other than domestic purposes if such supply would interfere with the sufficiency

Supply of water for other than domestic purposes and by measure.

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of the supply of water for domestic purposes Provided also that the Council shall not be entitled to charge for water supplied by measure under this section a higher price than one shilling and sixpence per thousand gallons.

Power to charge for meters and fittings.

32. The Council may charge for the hire and use of meters for ascertaining the quantity of water consumed or supplied and of fittings connected therewith such rents or sums of money as may from time to time be agreed upon between the hirer and the Council and the rent of meters let for hire shall be recoverable in the same manner as rates due to the Council for water.

Notice to Council of connecting or disconnecting meters.

33. Before any person connects or disconnects any meter by means of which any of the water of the Council is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Council of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of some officer of or person authorised by the Council and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Register of meter to be *primâ facie* evidence.

34. Where water is supplied by measure the register of the meter or other instrument for measuring water shall be *primâ facie* evidence of the quantity of water consumed and in respect of which any water rate is charged and sought to be recovered by the Council Provided that if the Council and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid and the decision of such court shall be final and binding on all parties.

Injuring meters &c.

35. Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Council or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Council shall for every such offence forfeit and pay to the Council a sum not exceeding five pounds and the Council may in addition thereto recover the amount of any damage by them sustained And the existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Council when such pipe meter instrument or

fittings is or are under the custody or control of the consumer shall be primâ facie evidence that such injury alteration prevention abstraction consumption or use as the case may be has been knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings. A.D. 1898.

36. Any person duly appointed for the purpose by the Council may between the hours of nine in the forenoon and four in the afternoon enter any building or place supplied with water by the Council and inspect the meter pipes fittings and apparatus for regulating the supply of water and see whether they are in good repair and if such person at any such time be refused admittance into such premises for the purposes aforesaid or be prevented from making such examination the occupier of such premises shall for every such offence forfeit to the Council a sum not exceeding five pounds. Council's officer may enter buildings.

37. The Council shall at any time after the acquisition of the undertaking of the Company when so required by any other local authority (as defined by the Public Health Act 1875) sell to such authority such part of the water undertaking of the Council as shall at that time be situate in the district of such authority (except all pipes mains and other works required and used or that may be required and used for supplying or conveying water to or into and for any other part of the area for the time being included within the limits of supply of the Council) and the compensation which such authority shall pay for the same shall be such sum in gross as may be determined by agreement between the Council and such authority or such as failing agreement shall be settled by arbitration under the Lands Clauses Acts and after any such sale the powers and obligations of the Council to supply water within the district of such authority shall cease: Council when so required to sell portion of undertaking outside district.

Provided that in determining the amount of compensation to be so paid the arbitrators or umpire shall not take into consideration any increase of water rates authorised by this Act and shall not make any allowance for prospective profits:

Any such purchase shall be deemed to be a purchase by such local authority under and for the purposes of the Public Health Act 1875.

38. The Council shall apply all moneys from time to time received by them in respect of any sales or dispositions of lands and premises by this Act authorised or by way of fine or premium on any lease or in respect of any sale of any portion of their water undertaking to any other local authority under the provisions of this Application of moneys from sale &c. of land. &c.

A.D. 1898. Act in or towards paying off moneys borrowed and for the time being owing under this Act. Provided that such proceeds shall not be applicable to the payment of instalments appropriations or annual repayments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

Power to borrow.

39.—(1.) The Council may independently of any other borrowing power borrow at interest any sum or sums of moneys for the purposes herein-after mentioned not exceeding the respective amounts herein-after specified (if any) (that is to say) :—

(A) For the purchase of the undertaking of the Company and for paying any sums payable by the Council to the Company under this Act and defraying the taxed costs and expenses incident to such purchase and to the transfer of such undertaking to the Council (other than the costs of this Act) such sum as may be required ;

(B) For paying the taxed costs and expenses of this Act as herein-after provided the sum requisite for that purpose :

And with the approval of the Local Government Board such further moneys as the Council may require for any of the purposes of this Act or for the extension and improvement of their waterworks or otherwise in relation to the water undertaking of the Council.

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

Inquiries by Local Government Board.

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

(2.) The Council shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries 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.

Mode of raising money.

41. The Council may raise all or any moneys which they are authorised to borrow under this Act either by mortgage or by issue

of debentures or annuity certificates under and subject to the provisions of this Act as regards a sinking fund or partly in one way and partly in another. A.D. 1898.

42. 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 1875 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act shall not be reckoned. Certain regulations of Public Health Act as to borrowing not to apply.

43. Sections 236 to 239 of the Public Health Act 1875 shall extend and apply mutatis mutandis to mortgages granted under this Act. Provisions of Public Health Act as to mortgages to apply.

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

As to moneys borrowed for the purposes (A) mentioned in the section of this Act the marginal note of which is "Power to borrow" to the extent herein-before prescribed fifty years from the date or dates of the borrowing of the same;

As to moneys borrowed for the purpose (B) in the said section mentioned five years from the date or dates of the borrowing of the same;

As to moneys borrowed with the approval of the Local Government Board such period as they may think fit to sanction.

45. The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund or partly by such instalments and partly by a sinking fund. Mode of payment off of money borrowed.

46. If the Council determine to pay off by means of a sinking fund any moneys borrowed under the authority of this Act the following regulations shall be observed:— Regulations as to sinking fund.

The Council in every year shall appropriate and set apart out of the rate and revenue on the security of which such moneys shall have been borrowed such equal annual sums as will with the accumulations thereof by way of compound interest at not exceeding three per centum per annum with yearly rests be sufficient to pay off the whole of the principal moneys borrowed on such security within the prescribed period. The rate of accumulation on which the amounts paid to the sinking fund are based is herein-after referred to as "the prescribed rate":

Provided as follows (that is to say):—

(A) The yearly sums so to be appropriated and set apart shall be invested and accumulated in the way of compound interest by

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investing the same and the dividends interest and annual income thereof respectively in securities in which trustees are for the time being authorised to invest or in mortgages debenture stock or other securities (not being annuities rentcharges or securities transferable by delivery) duly created and issued by any local authority as defined by the Local Loans Act 1875 other than the Council and any such investments may be varied or transposed Provided that if in any year the income arising from the investments of the sinking fund does not equal the prescribed rate of accumulation any deficiency shall be made good out of the rate and revenue from which the annual payments to such fund are made and that if in any year such income exceeds the prescribed rate of accumulation any excess may be applied in reduction of the annual payments which would otherwise be required to be made to such fund :

- (B) The Council may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys in such order and manner as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of the borrowed moneys to which such sinking fund is applicable are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the prescribed rate Provided also that whenever and so long as the value of the securities standing to the credit of the sinking fund taken at the market price of the day shall be equal to the amount of the borrowed moneys then outstanding for the repayment of which it was set aside the Council may in lieu of investing the yearly income of such fund apply the same in payment of interest on moneys in respect of which the fund was set aside and may during such periods discontinue the payment to the sinking fund of the yearly sums required to be paid thereto.

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

47. The clerk to the Council 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 of the clerk 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 clerk shall be liable to a penalty not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in a summary manner. If it appear to the Local Government Board by such return or otherwise that the Council have failed to pay any instalment or to set apart the sum required for the sinking fund under this Act 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 and the provisions of this section shall apply mutatis mutandis to appropriations and annual repayments.

A.D. 1898.

48. If the Council pay off any part of any money borrowed by them under the powers of this Act otherwise than by means of instalments or appropriations or annual repayments or a sinking fund or out of the proceeds of the sale exchange or disposition of lands or out of fines or premiums on leases or other moneys received on capital account not being borrowed moneys they may reborrow the same but all moneys so reborrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such reborrowing shall have been made and any amounts reborrowed shall be deemed to form the same loan as the moneys in lieu of which such reborrowing shall have been made and the obligations of the Council with respect to the repayment of such moneys shall not be in any way affected by such reborrowing.

Power to reborrow.

49. The Council shall not be bound to see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register or books of the Council shall be a sufficient discharge to the Council in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Council have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register or books and the Council shall not be bound to see to the application of the money paid on any such receipt or be

Council not to regard trusts.

A.D. 1898. answerable or accountable for any loss misapplication or non-application of any such money.

Application
of borrowed
moneys.

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

Expenses of
execution
of Act.

51. All expenses incurred by the Council in carrying into execution the provisions of this Act (except such as are to be paid out of borrowed money or are otherwise provided for) shall be paid out of the district fund and general district rate.

Separate
accounts
of water
undertaking.

52. The Council shall keep separate accounts of their receipts and expenditure for waterworks purposes on capital and revenue account. The provisions of section 58 of the Local Government Act 1894 shall apply to the accounts of the Council and the accounts of their committees officers and assistants under this Act.

Application
of water
revenue.

53. The Council shall apply all money received by them in respect of their water undertaking except money borrowed and money derived from the sale of surplus lands or other moneys received on capital account as follows (that is to say):—

First In payment of the working and establishment expenses and cost of maintenance of their water undertaking:

Secondly In payment of the interest on moneys borrowed by the Council under this Act for the purposes of their water undertaking:

Thirdly In providing the requisite appropriations instalments or sinking funds under this Act in respect of moneys borrowed by the Council for the purposes of their water undertaking:

Fourthly In providing a reserve fund for their water undertaking if they think fit by setting aside such money as they think reasonable and investing the same and the resulting income thereof in Government securities or any annuities rentcharges or securities in which trustees are or may be authorised to invest trust moneys (except securities of the Council and securities transferable by delivery) and accumulating the same at compound interest until the fund so formed amounts to five hundred pounds which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Council from their water undertaking or to meet any extraordinary claim or demand at any time arising against the Council in respect of that undertaking and so that if that fund is at any time reduced it may thereafter be again restored

[61 & 62 VICT.] *Wath-upon-Dearne Urban* [Ch. ccxxxviii.]
District Council (Water) Act, 1898.

to the sum of five hundred pounds and so from time to time as often as such reduction happens : A.D. 1898.

Fifthly In improving and extending their water undertaking :
And the Council shall carry to the district fund any balance remaining in any year after retaining or setting aside such a sum as may in the opinion of the Council be required for carrying on their water undertaking and paying the current expenses connected therewith and shall also carry to the district fund the annual proceeds of the reserve fund when such fund amounts to five hundred pounds.

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

55. Where any summons demand or other document under this Act (except a conveyance contract or security) requires authentication by the Council the signature thereof by their clerk shall be a sufficient authentication. Authentication of notices.

56. Any summons or warrant issued for any of the purposes of this Act may contain in the body thereof or in the schedule thereto several sums. Several sums in one summons.

57. No justice or judge of any county court or quarter sessions shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any water rate under this Act. Liability to water rate not to disqualify justices &c. from acting.

58. No person entering into any contract with the Council for the supply of water to him or for any meter or apparatus to be furnished to him or for any work to be done for him for the purposes of such supply shall thereby be disabled from being a member of the Council or incur any penalty by reason of such contract but any member of the Council concerned directly or indirectly by himself or any partner in any such contract shall not take part in any vote or proceeding relative thereto at any meeting of the Council. Contracts for water not to disqualify.

59. The costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act including the costs Costs of Act.

A.D. 1898. — charges and expenses preliminary to and of and connected with the obtaining of the resolution of owners and ratepayers aforesaid as taxed by the taxing officer of the House of Lords or the House of Commons shall be paid by the Council primarily out of the general district rate but ultimately out of moneys borrowed under the authority of this Act.

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The SCHEDULES referred to in the foregoing Act.

A.D. 1898.

THE FIRST SCHEDULE.

FORM OF DEED OF CONVEYANCE OF UNDERTAKING OF COMPANY TO THE
COUNCIL.

In pursuance of and subject to the provisions of the *Wath-upon-Dearne Urban District Council (Water) Act 1898* and in consideration of

the *West Melton Waterworks Company Limited* do hereby grant convey and assign unto the *Urban District Council of Wath-upon-Dearne* the undertaking of the *West Melton Waterworks Company Limited* To hold the same unto the *Urban District Council of Wath-upon-Dearne* their successors and assigns subject to the rents and covenants now affecting the same and the *Urban District Council of Wath-upon-Dearne* do accept the same accordingly.

In witness whereof the *West Melton Waterworks Company Limited* and the *Urban District Council of Wath-upon-Dearne* have hereto set their respective common seals this day of 189 .

THE SECOND SCHEDULE.

AN AGREEMENT made the tenth day of May one thousand eight hundred and ninety-eight between THE WEST MELTON WATERWORKS COMPANY LIMITED (herein referred to as "the Company") of the one part and THE WATH-UPON-DEARNE URBAN DISTRICT COUNCIL (herein referred to as "the Council") of the other part for the sale and purchase of the undertaking of the Company.

WHEREAS the Company was formed in or about the year one thousand eight hundred and fifty-eight for the purpose of supplying water in the parishes of *Brampton Bierlow* and *Wath-upon-Dearne* and was duly registered under the *Joint Stock Companies Acts 1856-1857* And whereas the Company have constructed and maintained works and continue to maintain them and have made arrangements for the supplying of water and are now supplying water in the parishes of *Brampton Bierlow* and *Wath-upon-Dearne* aforesaid And whereas the Council are promoting in the present session of Parliament a Bill for the purpose among others of transferring to the Council the

A.D. 1898. — undertaking of the Company and the Company have petitioned against the Bill And whereas the Council is desirous of purchasing and the Company has agreed to sell the said undertaking works and property on the terms herein-after contained and it is intended that the Council at its own expense should proceed with its said Bill and endeavour to obtain the sanction of Parliament to the said sale and purchase Now it is hereby agreed and declared as follows:—

1. The Company shall sell and the Council shall purchase the undertaking of the Company at and for the price or sum of thirteen thousand two hundred and fifty pounds subject to the following terms and conditions.

2. The undertaking of the Company shall mean and include—

- (a) All the leasehold reservoirs (held under lease dated the fourteenth day of June one thousand eight hundred and eighty-seven from Earl Fitzwilliam to the Company for an unexpired term of eighty years at the annual rent of twenty-one pounds) and premises and all mains pipes valves and other apparatus and plant now belonging to the Company and situate in the parishes of Wath-upon-Dearne and Brampton Bierlow or elsewhere in the county of York and all the rights easements powers and privileges whatsoever now vested in the Company or which may at midnight on the thirtieth day of September next (which time is herein-after referred to as "the time of transfer") be vested in the Company for the purposes of water supply within the said parishes or elsewhere;
- (b) The benefit (so far as the Company can lawfully assign the same) of an agreement dated the twenty-seventh day of February one thousand eight hundred and seventy-nine and made between Joseph Mitchell as agent for and on behalf of the Dearne Valley Waterworks Company Limited of the one part and the Company of the other part;
- (c) The goodwill of the business carried on by the Company; and
- (d) All other the assets property and effects of the Company as at the time of transfer except as herein-after mentioned.

3. The purchase of the undertaking shall not include debts due to the Company or any money in their hands or in the hands of the treasurer or bankers of the Company or held in trust for the Company or any reserve funds to which the Company is now or may hereafter prior to the time of transfer become entitled nor shall it include any rents or water rates for water supplied up to the time of transfer and if any such rents or water rates or other money shall be received by the Council the same shall forthwith be handed over to the Company.

4. The purchase shall take effect as from the time of transfer and shall be completed at the offices of the solicitors to the Company at the expiration of three calendar months from the day on which the said Bill shall receive the Royal Assent and thereupon the said purchase moneys shall be paid by the Council to the Company or as the Company shall direct.

5. Up to the time of transfer the Company shall continue in possession of the said premises hereby agreed to be sold and in receipt of the rents and profits thereof and shall carry on the said undertaking in the usual and ordinary manner without liability for fair wear and tear but making the

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usual repairs to burst pipes or the like so as to maintain the said undertaking in fair working order as a going concern and shall not make any alteration or variation in the ordinary working of the said undertaking without the sanction in writing of the Council.

6. The rents and profits of the said premises hereby agreed to be sold shall be received and all outgoings in respect thereof shall be discharged and all the rights privileges duties and powers obligations and liabilities of the Company in respect thereof shall (subject to the provisions of this agreement) be retained observed and performed by the Company up to the time of transfer and as from that time the outgoings shall be discharged and the future obligations and liabilities of the Company in respect of the said premises hereby agreed to be sold performed and observed and the rents and profits received and the rights privileges and powers of the Company in respect of the same premises assumed by the Council and all proper apportionments as may be necessary shall be made between the Company and the Council for the purpose of this and the last clause and for the purpose of ascertaining the rents and water rates mentioned in clause 3 as not included in the purchase.

7. As from the time of transfer the Company shall except as mentioned in the next following clause of this agreement cease to supply water for any purpose within the parishes of Brampton Bierlow and Wath-upon-Dearne.

8. As from the time of transfer until the day fixed for completion the Council shall pay interest on the said purchase money at the rate of three and a half per centum per annum. If from any cause whatsoever other than the wilful default of the Company the purchase shall not be completed on the day fixed for completion the Council shall thenceforth pay interest on the said purchase moneys at the rate of four per centum per annum until the actual completion and as from the time of transfer until actual completion the Company shall carry on the said undertaking on behalf of the Council and shall be paid by the Council all expenses and indemnified by them against all liabilities incurred by the Company in carrying on the said business during such period and shall account to the Council in respect of the rents and profits received and outgoings paid by the Company for such period.

9. Upon payment by the Council to the Company of the said purchase moneys and all interest (if any) which may have become due for the same the Council shall be let into actual possession of the said premises hereby agreed to be sold and the Company shall execute a proper assurance or proper assurances of the said premises not capable of manual delivery such assurance or assurances to be prepared by and at the expense of the Council. The Company shall not be liable to obtain the assent of Earl Fitzwilliam to the assignment by the Company to the Council of the Company's leasehold premises.

10. This agreement shall be scheduled to the said Bill promoted by the Council in the present session of Parliament.

11. Provided always and it is hereby expressly agreed and declared that this agreement is conditional upon its being ratified by a special resolution of the Company and if the same is not so ratified within two calendar months

A.D. 1898. from the date hereof either of the parties hereto may by notice in writing to the other rescind this agreement.

12. Provided also and it is further expressly agreed and declared that this agreement is also subject to the approval of Parliament and to such alteration as either House of Parliament may think fit to make therein but in the event of either House of Parliament making any material alteration therein it shall be in the option of either party to withdraw from the same and if the said Bill confirming this agreement does not pass into law before the first day of October one thousand eight hundred and ninety-eight this agreement shall be null and void Any question whether any alteration which may be made in this agreement as aforesaid is or is not a material alteration within the meaning of this clause shall be referred to Thomas Robert Gainsford of Woodthorpe Hall near Sheffield Esquire whose decision shall be final and binding on both parties.

13. The Council shall pay to the Company in addition to the said sum of thirteen thousand two hundred and fifty pounds the sum of three hundred and fifty pounds to cover all the costs of the Company either incurred or to be incurred except the cost of and incidental to the winding up of the Company and the further sum of one hundred and fifty pounds to cover all the costs of and incidental to the winding up of the Company both which sums shall be paid to the solicitors of the Company on the completion of the purchase.

14. The Company shall pay and discharge all their own debts liabilities and engagements now incurred or to be incurred prior to the date of transfer except as mentioned in the last preceding clause of this agreement.

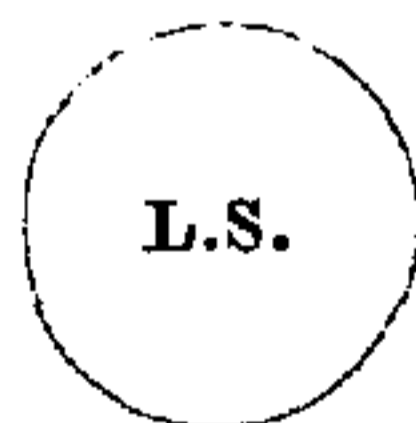
15. If any dispute at any time arise between the parties hereto with reference to the true construction of this agreement or with reference to anything to be done thereunder or otherwise under or in relation thereto such dispute shall be referred to an arbitrator to be agreed on between the parties or failing such agreement to be appointed by the President for the time being of the Sheffield Incorporated Law Society at the request of either party and the decision of such arbitrator shall be final.

In witness whereof the Company and the Council have caused their respective common seals to be hereunto affixed the day and year first above written.

The common seal of the West Melton Waterworks Company Limited was hereunto affixed in the presence of

TOM NASH
W. H. GAWTREY } Two Directors.

THOMAS CLARKE Secretary.



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