



CHAPTER lxx.

An Act to make further provision in regard to the water and gas undertakings of the Mayor Aldermen and Burgesses of the borough of Ilkeston and for other purposes. A.D. 1898.

[1st July 1898.]

WHEREAS in pursuance of powers conferred upon them by the Public Health Acts the mayor aldermen and burgesses of the borough of Ilkeston (in this Act called "the Corporation") have constructed waterworks for supplying and are supplying water within the borough of Ilkeston (in this Act called "the borough"):

And whereas the supply of water from the existing waterworks of the Corporation is inadequate to meet the present and growing demands of the inhabitants of the borough and it is expedient that the Corporation be empowered to make and maintain the additional works by this Act authorised and that further provision be made as in this Act contained in regard to the water undertaking of the Corporation:

And whereas the Corporation are the owners of the gasworks which supply the borough with gas and the Corporation and their predecessors the Ilkeston Local Board have in pursuance of powers conferred upon them by the Public Health Acts and the Ilkeston Gas Order 1878 expended considerable sums of money in the purchase and extension of the said gasworks and have with the sanction of the Local Government Board borrowed money to defray such expenditure:

And whereas it is expedient that the provisions of the Order of 1878 relating to the borrowing and repayment of money be repealed:

And whereas the balance of the outstanding loans of the Corporation contracted for all the purposes of the Public Health Acts amounts in the whole to nearly the assessable value for two years of the premises assessable within the borough for the purposes of those Acts and in order that the borrowing powers of the

A.D. 1898. Corporation may not be unduly restricted it is expedient to exclude the moneys borrowed and to be borrowed for the purposes of the gas and water undertakings of the Corporation from calculations of the maximum amount which the Corporation are empowered to borrow under the Public Health Acts :

And whereas it is expedient to make further provision in regard to the gas undertaking of the Corporation :

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

And whereas estimates have been prepared by the Corporation for the purposes herein-after mentioned and such estimates are as follows :—

For the execution of the waterworks by this Act authorised and other the purposes of the water undertaking of the Corporation thirty thousand pounds ;

For the purposes of the gas undertaking of the Corporation 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 an absolute majority of the whole number of the council at a meeting held on the twenty-sixth day of October 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 *Ilkeston Pioneer* a local newspaper published and circulating in the borough such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expenses in relation to promoting the Bill for this Act should be charged on the district fund and general district rate of the borough :

And whereas such resolution was published twice in the said *Ilkeston Pioneer* 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 first day of March 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 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 :

And whereas a plan and section showing the lines and levels of the waterworks by this Act authorised were duly deposited with the clerk of the peace for the county of Derby and are in this Act respectively referred to as the deposited plan and section : A.D. 1898.

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 :—

PRELIMINARY.

1. This Act may be cited as the Ilkeston Corporation Act 1898. Short title.

2. The provisions of the Waterworks Clauses Act 1847 with respect to the construction of the waterworks (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act. Partial incorporation of Waterworks Clauses Act 1847.

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

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

“The borough” means the borough of Ilkeston ;

“The council” means the council of the borough ; .

“The Order of 1878” means the Ilkeston Gas Order 1878 confirmed by the Local Government Board's (Gas) Provisional Orders Confirmation (Droitwich &c.) Act 1878 ;

“The town clerk” “the district fund” and “the general district rate” mean respectively the town clerk district fund and general district rate of the borough.

4. This Act shall be carried into execution by the Corporation acting by the council. Execution of Act.

WATER.

5. Subject to the provisions of this Act the Corporation may make and maintain in the lines and situations delineated on the deposited plan and according to the levels shown on the deposited section the following waterworks namely :— Power to make waterworks.

A well and pumping station to be situate near to and at the south end of the reservoir of the Corporation at Little Hallam in the borough :

Together with all necessary or proper shafts pumps engines tanks embankments sluices gauges filter-beds adits headstocks channels

A.D. 1898. — conduits mains pipes junctions valves telegraphs telephones and other means of electric communication approaches buildings machinery apparatus and conveniences connected with or ancillary to the said works or the existing waterworks of the Corporation or necessary for inspecting maintaining repairing cleansing managing working or using the same Provided that any telegraphs or telephones constructed and maintained under the authority of this Act shall not be used in contravention of the privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Power to deviate.

6. In constructing the works by this Act authorised the Corporation may deviate from the lines thereof to any extent not exceeding the limits of deviation shown on the deposited plan and may also deviate from the levels shown on the deposited section to any extent either upwards or downwards.

Power to take waters.

7. Subject to the provisions of this Act the Corporation may for the purpose of their waterworks take collect use and appropriate all such streams springs and waters as can be intercepted by the works authorised by this Act.

Period for completion of works.

8. If the works by this Act authorised and delineated on the deposited plan are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof respectively or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Purchase of lands by agreement.

9. The Corporation may by agreement purchase take on lease and acquire and hold for the purposes of their water undertaking any lands not exceeding in the whole twenty acres but nothing in this section shall authorise the Corporation to create or permit the creation or continuance of any nuisance on any such lands.

Restriction on taking houses of labouring class.

10.—(1) The Corporation shall not under the powers of this Act purchase or acquire 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 have been or shall be subsequently so occupied.

(2) For the purposes of this section the expression "labouring class" means mechanics artisans 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 of such persons who may be residing with them. A.D. 1893.

11. 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 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 so 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. Persons under disability may grant easements &c.

12. The Corporation may sell lease and dispose of any lands acquired by them under this Act and not for the time being required for the purposes thereof. Power to sell lands.

13. The Corporation on selling any lands acquired for or 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.

14. The water supplied by the Corporation shall be constantly laid on under pressure but need not at any time be delivered at a pressure greater than that to be afforded by gravitation from the Shipley reservoir of the Corporation. Constant pressure.

15. The Corporation shall not be compelled to supply with water any watercloset or any bath or the apparatus or pipes connected therewith respectively unless the same be so constructed and used as to prevent the contamination of the water of the Corporation nor any bath which shall be capable of containing more than fifty gallons. Corporation not to be compelled to supply certain closets or baths.

16. For preventing waste misuse undue consumption or contamination of the water of the Corporation the following provisions shall have effect (that is to say) :— Byelaws for preventing waste &c. of water.

- (1) The Corporation 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

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the pipes meters cocks ferrules valves soilpans waterclosets baths 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 of them which may allow or tend to waste or undue consumption misuse erroneous measurement or contamination :

- (2) Such byelaws shall apply only in the case of premises to which the Corporation are bound to afford and do in fact afford or are prepared on demand to afford a constant supply :
- (3) In case of failure of any person to observe such byelaws as are for the time being in force the Corporation 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 soilpan 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 Corporation by the person on whose credit the water is supplied and may be recovered by them as water rates are recoverable :
- (4) The provisions with respect to byelaws contained in sections 182 to 185 of the Public Health Act 1875 (except so much thereof as relates exclusively to byelaws of a rural sanitary authority) shall apply to byelaws made under the provisions of this section.

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

17. The Corporation may by agreement supply water for other than domestic purposes on such terms and conditions as the Corporation think fit and may by agreement 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 Corporation 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 of the supply of water for domestic purposes.

Power to Corporation to supply materials &c.

18. The Corporation may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter any such pipes valves cocks cisterns baths meters soilpans 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 Corporation in providing such materials and executing such work shall be paid by the person requiring the same.

19. The Corporation shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house supplied by them with water.

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Corporation not bound to supply several houses by one pipe.

20. Where several houses or parts of houses in the occupation of several persons are supplied by one common pipe the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been separately supplied with water from the works of the Corporation by a distinct pipe. Provided that the Corporation shall not be compelled to supply water to the occupier of any part of a dwelling-house unless the water rate is paid for the whole of such dwelling-house.

Where several houses supplied by one pipe each to pay.

21. Any tenant or occupier of one or part of one of several houses or tenements supplied by a common pipe who takes or uses the water laid on by the Corporation to any other such house or tenement or allows the same to be taken or used contrary to the provisions of this Act shall for every such offence be liable to a penalty not exceeding five pounds.

Mis-user where supply to several houses by a pipe common to all.

22. The Corporation may enter into and carry into effect agreements with any local authority or person within or beyond the borough for the supply by the Corporation to such authority or person respectively of water in bulk. Provided that it shall not be lawful for the Corporation to supply water under any such agreement as aforesaid beyond the borough and within the limits of supply of any local authority or company without their consent nor if and so long as such supply shall interfere with the continuous supply of water for domestic purposes within the borough.

Supply of water in bulk

23. The waterworks to be constructed under the authority of this Act shall for all purposes be deemed to form part of the existing water undertaking of the Corporation.

New works to form part of existing water undertaking.

GAS.

24.—(1) The Corporation may purchase provide supply sell let for hire and otherwise deal in and fix set up alter remove and refix gas-engines stoves ranges pipes and other apparatus and appliances articles and things for lighting motive power the warming and ventilation of houses and buildings the cooking of food and for all other purposes for which gas can or may be used and may require and take such remuneration in money or such rents and charges for and make such terms and conditions with respect to the sale supply letting fixing setting up altering or removing of such engines stoves

Power to supply gas apparatus &c. for heating motive and other purposes.

A.D. 1898. ranges pipes and other apparatus and appliances articles and things as aforesaid and for securing (both as regards the consumer and third parties) their safety and return to the Corporation as may be agreed upon between the Corporation and the person to or for whom the same are sold supplied let fixed set up altered or removed.

(2) The engines stoves ranges pipes and other apparatus appliances articles and things let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent nor to be taken in execution under any process of a court of law or equity or any proceedings in bankruptcy against the persons in whose possession the same may be. Provided that such engines stoves ranges pipes apparatus appliances articles and things have upon them a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Corporation as the actual owners thereof.

Power to lay pipes against buildings.

25. The Corporation with the consent of the owner and occupier of any building may lay any pipe branch or any other necessary apparatus from any main or branch pipe into through or against such building for the purpose of supplying it with gas and may with the like consent provide and set up any apparatus necessary for securing to such building a proper and complete supply of gas and for measuring and ascertaining the extent of such supply and may with the like consent repair replace alter discontinue and remove any such pipe branch or apparatus.

Supply of gas in bulk.

26. The Corporation may contract with any local authority or person whether within or beyond the borough (but as to any such authority or person beyond the borough only with the consent of any local authority or company authorised by special Act or provisional order confirmed by Parliament to supply gas within the district within which the supply is to be given) for the supply to them respectively of gas in bulk upon such terms and conditions and for such periods not exceeding in any case seven years from the making of the contract as shall be agreed upon.

Power to refuse to supply persons in debt for other property.

27. If a person requiring a supply of gas has previously quitted premises at which gas was supplied to him by the Corporation without paying all gas or meter rent or rents for stoves or other apparatus due from him the Corporation may refuse to furnish to him a supply of gas until he pays the same.

Gas consumers to give notice before removing.

28. Twenty-four hours notice in writing shall be given to the Corporation by every gas consumer before he shall quit any premises supplied with gas by meter by the Corporation and in default of such notice the consumer so quitting shall be liable to pay

to the Corporation the money accruing due in respect of such supply up to the next usual period for ascertaining the register of the meter on such premises or the date from which any subsequent occupier of such premises shall require the Corporation to supply gas to such premises whichever shall first occur Notice of the effect of this enactment shall be endorsed upon every demand note for gas rent. A.D. 1898.

29. A notice to the Corporation from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Corporation. Notice of discontinuance.

30. In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the current quarter and the amount of the allowance to be made to or of the surcharges to be made upon the consumer by the Corporation shall be paid by or to the Corporation to or by the consumer as the case may be and shall be recoverable in any court of competent jurisdiction for the recovery of debts of like amount. Period of error in defective meters.

31. The Corporation may maintain and erect dwelling-houses for persons in their employ upon the lands for the time being belonging to or leased by the Corporation. Dwelling-houses for persons in employ of Corporation.

FINANCIAL AND MISCELLANEOUS.

32.—(1) Articles 14 to 23 25 26 and 28 of the Order of 1878 are hereby repealed and the provisions of this Act relating to the borrowing and reborrowing of money the payment off of money borrowed and the application of money borrowed shall so far as they are applicable apply to money borrowed under such repealed articles as if the same were borrowed under this Act and for the purpose of applying such provisions the periods sanctioned by the Local Government Board for the repayment of money borrowed under such articles shall be deemed to be the prescribed periods. Repeal of financial provisions of Order of 1878.

(2) Section 39 of this Act shall be deemed to be referred to in article 24 of the Order of 1878 instead of article 17 of that Order.

33. In calculating the amount which the Corporation may borrow under the Public Health Act 1875 the amount already borrowed by the Corporation and the Ilkeston Local Board in respect of their gas undertaking and in respect of their water undertaking and any sums which may hereafter be borrowed by the Corporation in respect of those undertakings shall not be reckoned. Exclusion of gas and water loans from calculations under Public Health Act 1875.

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Power to
borrow.

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

(a) For the execution of the waterworks by this Act authorised and other the purposes of the water undertaking of the Corporation the sum of thirty thousand pounds;

(b) For the purposes of the gas undertaking of the Corporation the sum of five thousand pounds;

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

(2) In order to secure the repayment of the moneys borrowed under this section and the payment of the interest thereon the Corporation may mortgage or charge the district fund and the general district rate and as regards the purposes (a) the revenue of the water undertaking of the Corporation and as regards the purposes (b) the revenue of the gas undertaking of the Corporation.

Mode of
raising
money.

35. The Corporation may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another or others Provided that the provisions contained in the section of this Act whereof the marginal note is "Sinking fund" shall apply to sinking funds formed for the repayment of moneys borrowed under the Local Loans Act 1875 instead of the provisions of section 15 of that Act.

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

36. Sections 236 to 238 of the Public Health Act 1875 (as to the form register and transfer of mortgages) shall extend and apply to mortgages granted under this Act.

Periods for
repayment
of money
borrowed.

37. 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 purposes (a) mentioned in the section of this Act the marginal note whereof is "Power to borrow" within fifty years from the date or dates of the borrowing of the same;

As to moneys borrowed for the purposes (b) mentioned in the said section within thirty years from the date or dates of the borrowing of the same;

As to moneys borrowed for the purposes (c) in the said section mentioned within ten years from the date or dates of the borrowing of the same.

Mode of
payment off
of money
borrowed.

38. The Corporation shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest

combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within one year from the date of borrowing the sum in respect of which the payment is made.

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

Sinking
fund.

(a) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed is herein-after called a non-accumulating sinking fund; or

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

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority as defined by section 34 of the Local Loans Act 1875 other than the Corporation the Corporation being at liberty from time to time to vary and transpose such investments.

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

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

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

(b) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

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

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

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

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

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Corporation

may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct. A.D. 1898.

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

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

41. The Corporation shall not be bound to see to the execution of any trust whether express implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages of the Corporation shall be sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation 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. Corporation not to regard trusts.

42. The mortgagees of the Corporation by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five hundred pounds in the whole. The application for the appointment of a receiver shall be made to the High Court. Appointment of receiver.

43. If the Corporation pay off any moneys borrowed by them under this Act otherwise than by instalments 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 or out of other moneys received on capital account not being borrowed moneys 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. Power to re-borrow.

44.—(1) The town clerk shall within twenty-one days after the thirty-first day of March in each year during which any sum is Annual return to

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Local
Government
Board.

required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund for the repayment of any money borrowed by the Corporation for the purposes of their gas undertaking or their water undertaking transmit to the Local Government Board a return in such form as may from time to time be prescribed by that Board and if required by that Board verified by statutory declaration showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment of the sum accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of any wilful default in making such return the town clerk shall be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court.

(2) If it appear to the Local Government Board by that return or otherwise that the Corporation have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund for the repayment of any money borrowed by the Corporation for the purpose of their gas undertaking or their water undertaking or have applied any portion of any such sinking fund to any purpose other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default shall have been made shall be paid or applied as in such order mentioned and any such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

Application
of money
borrowed.

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

Separate
accounts of
gas and
water under-
takings.

46. The Corporation shall keep separate accounts of their receipts and expenditure in respect of their gas undertaking and their water undertaking on capital and revenue account and they may apportion between those accounts any expenditure incurred for purposes common to both.

Application
of revenue
from under-
takings.

47. The Corporation shall apply all money from time to time received by them in respect of their gas and water undertakings

respectively 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):—

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First In payment of the working and establishment expenses and cost of maintenance of the said undertakings respectively ;

Secondly In payment of the interest on moneys borrowed by the Corporation for the purposes of those undertakings respectively ;

Thirdly In providing the requisite appropriations annual repayments instalments or sinking fund payments in respect of moneys borrowed by the Corporation for the purposes of those undertakings respectively ;

Fourthly In extending improving or constructing (if the Corporation think fit) any works for the purposes of those undertakings respectively ;

Fifthly In providing a reserve fund (if the Corporation think fit) in respect of each of the said undertakings by setting aside such money as they may think reasonable and investing the same and the resulting income thereof in securities in which the Corporation are by this Act authorised to invest their sinking funds and accumulating the same at compound interest until the fund so formed amounts to one fifth of the aggregate capital expenditure on the undertaking which fund shall be applicable to answer any deficiency at any time happening in the income of the Corporation from the undertaking or to meet any extraordinary claim or demand at any time arising against the Corporation in respect of the undertaking and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed limit and so from time to time as often as such reduction happens Provided that resort may be had to the reserve fund under the foregoing provisions although such fund may not at the time have reached or may have been reduced below the full amount of one fifth of the said aggregate capital expenditure :

And the Corporation shall carry to the district fund so much of any balance remaining in any year of the revenue of their gas undertaking and their water undertaking as may in the opinion of the Corporation not be required for carrying on those undertakings respectively and for paying the current expenses connected therewith.

48. Any deficiency in the revenues of the Corporation on account of their gas undertaking or of their water undertaking shall be made good out of the district fund and the next general district rate after any such deficiency shall have been ascertained shall be increased accordingly.

Deficiency in revenues.

49. The proceeds of the sale of any lands of the Corporation shall be distinguished as capital in the accounts of the Corporation

Proceeds of sale of surplus lands.

A.D. 1898. — and shall be applied in discharge of any moneys borrowed by the Corporation but shall not be applied to the payments of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board and borrowed money discharged by the application of such proceeds shall not be re-borrowed.

Powers of Act cumulative.

50. All powers given to the Corporation by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on them by the Public Health Acts and such other powers may be exercised in the same manner as if this Act had not been passed. Provided that no person shall incur more than one penalty (other than a daily penalty for a continuing offence) for the commission of the same offence and provided that in cases where the provisions of this Act conflict with the provisions of the Public Health Acts the former shall prevail.

Authentication and service of notices.

51. Where any notice summons or other document (except a conveyance contract or security) under this Act requires authentication by the Corporation the signature thereof by the town clerk shall be a sufficient authentication and any notices summonses and other documents required or authorised to be served under this Act may be served in manner prescribed by section 267 of the Public Health Act 1875.

Recovery of penalties.

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

Penalties to be paid over to the treasurer.

53. All penalties recovered under this Act or under any byelaw thereunder shall except in the case of penalties recovered against the Corporation be paid to the treasurer of the borough and be by him carried to the credit of the district fund.

Costs of Act.

54. 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 of the House of Commons shall be paid by the Corporation and may be paid in the first instance out of any moneys in their hands but shall be charged to and recouped by the moneys which the Corporation are authorised to borrow under the powers of this Act.

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