

**CHAPTER xlix.**

An Act to empower the urban district council of Kirkby-in-Ashfield to supply gas and to provide for the transfer to the Council of so much of the gas undertaking of the Sutton-in-Ashfield Urban District Council as is situate within the urban district of Kirkby-in-Ashfield and for other purposes. A.D. 1904.

[24th June 1904.]

WHEREAS the district of Kirkby-in-Ashfield in the county of Nottingham is an urban district within the meaning of the Local Government Act 1894 and is under the management and control of the Kirkby-in-Ashfield Urban District Council (in this Act called "the Council"):

And whereas it is expedient that the gas supply of the district should be in the hands of the Council and that they should be authorised to erect and maintain upon the lands described in the schedule to this Act gasworks and works for the manufacture and storage of gas and of matters producible therefrom:

And whereas the before-mentioned lands are the property of the Council and are not now required for the purposes for which such lands were originally intended and it is expedient that the Council should be authorised to appropriate and use the same for the purposes of this Act:

And whereas by the Sutton-in-Ashfield Local Board Gas Act 1878 (herein-after referred to as "the Act of 1878") the undertaking of the Sutton-in-Ashfield Gas Light and Coke Company was transferred to the local board of health for the district of Sutton-in-Ashfield and the said local board were authorised to manufacture and supply gas within the parishes of Sutton-in-Ashfield Skegby

A D. 1904. Teversall Kirkby-in-Ashfield Newstead and Annesley all in the county of Nottingham :

And whereas by section 41 of the Act of 1878 it is enacted as follows :—

“ If at any time after the passing of this Act any rural sanitary district within the limits of the gas supply of the local board shall be constituted an urban sanitary district and the urban sanitary authority of such district shall give not less than six months notice in writing to the local board of their desire to purchase that portion of the undertaking of the local board which is contained in such district and shall obtain the consent of the Local Government Board to such purchase and shall apply to Parliament or the Local Government Board for power to purchase such portion of the undertaking of the local board (except the mains and pipes or other apparatus which shall be necessary for supplying with gas any other part of the local board's limits of supply) and to supply gas within such district then it shall not be lawful for the local board to oppose such application (except as to the details thereof) and if such powers be granted the local board shall sell and such sanitary authority shall purchase such portion of the undertaking of the local board (except as aforesaid) within the district of such sanitary authority at such price as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Consolidation Acts 1845 1860 and 1869 and the local board shall apply the proceeds of any sale under this section in the same manner as they are required to apply moneys borrowed under the powers of this Act Provided always that no such authority shall be authorised until after the completion of such purchase to supply gas to any part of such district and that after the completion of such purchase all obligation on the part of the local board to supply gas within such district shall cease and determine ” :

And whereas by an order of the Nottingham County Council made on the 19th day of September 1895 and confirmed by the Local Government Board on the 15th day of January 1896 the parish of Kirkby-in-Ashfield was constituted an urban sanitary district (herein-after referred to as “ the district ”) and the Council as the urban sanitary authority of such district on the 30th day of April 1903 gave notice in writing to the Sutton-in-Ashfield

Urban District Council (the successors of the Sutton-in-Ashfield Local Board) of their desire to purchase that portion of the gas undertaking authorised by the Act of 1878 which is contained within the district: A.D. 1904.

And whereas the Council are desirous of purchasing in accordance with the provisions of the Act of 1878 and it is expedient that they should be enabled to acquire so much of the gas undertaking as they are by that Act entitled to apply for powers to purchase and that the powers contained in this Act with reference to such purchase should be conferred upon the Council:

And whereas the parish of Annesley and part of the parish of Selston adjacent to the district are within the limits of supply of the Sutton-in-Ashfield Urban District Council and of the Riddings District Gas Company respectively and are without a supply of gas and it is expedient that the Council be authorised to supply gas within the parish of Annesley and part of the parish of Selston and that the powers of the Sutton-in-Ashfield Urban District Council and of the Riddings District Gas Company respectively to supply gas within such parish and part of parish should be repealed:

And whereas it is expedient that the Council should be authorised to raise further money by rates and by borrowing for the purposes of this Act:

And whereas an estimate has been prepared by the Council for the purchase of lands and the erection of the new gasworks by this Act authorised and such estimate amounts to the sum of sixteen thousand pounds:

And whereas such new gasworks are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas an absolute majority of the whole number of the Council at a meeting held on the eighth day of December one thousand nine hundred and three after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Nottingham Daily Guardian a local newspaper circulating in the district 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:

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And whereas such resolution was published twice in the said Nottingham Daily Guardian 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 twelfth day of January one thousand nine hundred and four being not less than fourteen days after the deposit of the Bill for this Act in Parliament :

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule of the Borough Funds Act 1903 have been observed :

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 Kirkby-in-Ashfield Urban District Council (Gas) Act 1904.

Incorporation of Acts.

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 and form part of this Act (namely) :—

The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845) ;

The Gasworks Clauses Act 1847 (except the provisions thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit and with respect to the yearly receipt and expenditure of the undertakers) ; and

The Gasworks Clauses Act 1871 (except sections 7 8 and 35 thereof).

Interpretation.

3. In this Act unless the subject or context otherwise require—

Terms to which meanings are assigned by enactments incorporated with this Act or which have therein special meanings have in this Act and for the purposes of this Act the same respective meanings ;

“ The district ” means the urban district of Kirkby-in-Ashfield ;

“ The Council ” means the urban district council of the district ;

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

“ The Sutton Council ” means the Sutton-in-Ashfield Urban District Council ;

The expression “ the gas undertaking of the Sutton Council ” means the portion of the gas undertaking of the Sutton Council situate in the district which is authorised to be acquired by the Council including all the gasworks engines mains pipes and machinery plant fixed and movable (except the mains and pipes and other apparatus which shall be necessary for supplying with gas any other part of the limits of supply of the Sutton Council) 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 Sutton Council in relation to the manufacture sale and supply of gas within the district at the date of the transfer thereof to the Council under the provisions of this Act ;

The expression “ the clerk ” means the clerk to the Council ;

The expression “ the Act of 1878 ” means the Sutton-in-Ashfield Local Board Gas Act 1878 ;

“ Statutory security ” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond or debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or of any local authority as defined by section 34 of the Local Loans Act 1875 but does not include securities of the Council or annuities rentcharges or securities payable to bearer.

4. The limits of this Act for the supply of gas (in this Act referred to as “ the limits of supply ”) shall be and include the district and the parish of Annesley and so much of the parish of Selston as lies within the boundary formed by an imaginary line

Limits of Act.

A.D. 1904. commencing at the point of junction of the boundaries of Kirkby-in-Ashfield Annesley and Selston parishes and passing southward along the boundary dividing the parishes of Annesley and Selston to the middle of the road leading from Annesley Woodhouse to Selston Green thence passing westward along the centre of the last-mentioned road to its junction with Mexborough Road thence passing northward along the centre of Mexborough Road to the boundary dividing the parishes of Kirkby-in-Ashfield and Selston thence passing in a south-easterly direction along the last-mentioned boundary to the point first before mentioned.

Power to Council to acquire portion of gas undertaking of Sutton Council and provisions as to transfer.

5.—(1) If within two months from the passing of this Act the Council shall give notice to the Sutton Council of their intention to purchase the gas undertaking of the Sutton Council then the Sutton Council shall sell and the Council shall purchase the gas undertaking of the Sutton Council in accordance with and subject to the provisions of section 41 of the Act of 1878.

(2) The sale and purchase shall be for such price or consideration (being a sum in gross) and on such terms and conditions as may be agreed upon between the Sutton Council and the Council within six months after the passing of this Act or as failing such agreement shall be determined by arbitration in accordance with the provisions of the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement and in the construction of the said provisions the expression "the promoters of the undertaking" shall mean the Council and the expression "lands" shall mean the gas undertaking of the Sutton Council.

(3) The Council shall pay the price or consideration for the purchase of the gas undertaking of the Sutton Council on such day as may be agreed between the Council and the Sutton Council or failing agreement on the first day of January or the first day of July next after the expiration of two months from the date of the award determining the amount thereof (which day is herein-after referred to as "the date of transfer") and if the said price or consideration shall not then be paid the Council shall pay to the Sutton Council interest thereon as from that date to the date of actual payment of the said price or consideration at the rate of four per centum per annum and upon payment by the Council of such price or consideration and interest (if any) the gas undertaking of the Sutton Council shall by virtue of the Act of 1878 and of this Act become and shall thenceforth be transferred to and vested in the Council subject and according to the provisions of

this Act as from the date of transfer free as between the Sutton Council and the Council from all contracts obligations debts liabilities and incumbrances affecting the same and thenceforth the Council shall have and hold the gas undertaking of the Sutton Council : A.D. 1904.

Provided that if the said price or consideration shall not be paid within six months after the date of transfer the Sutton Council may enforce the payment thereof in manner provided by section 12 of the Local Loans Act 1875 and for this purpose the said price or consideration shall be deemed to be charged upon the general district rate of the Council.

(4) The Sutton Council shall be entitled to their net revenue after payment of all charges and outgoings up to the date of transfer and from and after the date of transfer the Council shall be entitled to all receipts of the gas undertaking of the Sutton Council and pay all outgoings.

6. The receipt in writing of the chairman and treasurer of the Sutton Council for such price or consideration or any other sum of money to be paid to them by the Council shall effectually discharge the Council from the sum so paid and from being concerned 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 the said chairman and treasurer.

Receipt for purchase money.

7. Until the said price or consideration and interest (if any) shall have been paid by the Council the gas undertaking of the Sutton Council shall be maintained and carried on by the Sutton Council as heretofore in the ordinary course of business and from and after the giving of the notice to purchase the Sutton Council shall not without the previous consent of the Council under the hand of their clerk enter into any new liability contract or agreement or other obligation in respect of the gas undertaking of the Sutton Council except such as may be in the ordinary course of the proper conduct of their business.

Sutton Council to carry on undertaking till transfer.

A.D. 1904.
Council may
exercise
powers &c.
of Sutton
Council.

8. From and after the payment by the Council of the said price or consideration and interest (if any) the Council may exercise and enjoy all the rights powers privileges and authorities which were vested in the Sutton Council before such purchase as the same respectively related to the gas undertaking of the Sutton Council or were exerciseable by the Sutton Council within the district and subject as in this section provided all rights powers and obligations of the Sutton Council to supply gas within the district shall cease and determine:

Provided that until the Council shall have erected and brought into use the gasworks which they are by this Act authorised to erect or until the expiration of a period of two years from the passing of this Act whichever shall first happen the Sutton Council shall continue to supply gas to the Council or in the district either as heretofore or in bulk as the Council may elect and the Council shall take such supply from the Sutton Council accordingly In the event of the Council electing to take a supply of gas in bulk from the Sutton Council the price to be paid for such gas shall be such as may be agreed upon between the Council and the Sutton Council or as failing agreement may be fixed by an engineer or other fit person to be appointed by the Local Government Board on the application of either party.

Actions &c.
not to abate
and penalties
to be reco-
verable.

9. No action suit prosecution or other proceeding whatsoever commenced either by or against the Sutton Council shall abate or be discontinued or prejudicially affected by reason of the transfer to and vesting in the Council of the gas undertaking of the Sutton Council but the same shall continue and take effect either in favour of or against the Sutton Council in the same manner in all respects as the same would have continued and taken effect in relation to the Sutton Council if the transfer had not been made and all penalties incurred by reason of any offence against the provisions of any regulations of the Sutton Council binding on the Sutton Council previously to the date of transfer may be sued for and all offences committed against such provisions previously to the date of transfer may be prosecuted in such or the like manner to all intents and purposes as such penalties might have been sued for or such offence prosecuted if the transfer had not taken place and all rents rates and moneys payable to the Sutton Council prior to the date of transfer may be sued for and recovered by the Sutton Council in the same manner in all respects as the

same might have been sued for and recovered if this Act had not been passed. A.D. 1904.

10. Subject to the provisions of this Act the Council may in or upon the lands described in the schedule to this Act or any part thereof erect construct maintain and as often as occasion may require enlarge alter improve extend and renew or discontinue gasworks retorts gasometers receivers drains sewers mains pipes meters lamps lamp-posts burners stopcocks machinery and other works and apparatus and conveniences and may do all such acts as they may think proper for making and storing gas and for supplying gas within the limits of supply and for the conversion or utilisation and distribution of materials used in and about the manufacture of gas and of residual products resulting from such manufacture and may make store and supply gas accordingly and the Council may manufacture sell provide and deal in coke coal-tar asphaltum ammoniacal liquor oil and all other refuse or residuary products arising remaining produced by or obtained from the manufacture of gas by them or the materials used therein and may manufacture produce and sell such articles as can be produced from and by means of the several matters and things aforesaid.

Power to erect and maintain gasworks &c.

11. The Council may for the purposes of their undertaking purchase take and hold (by agreement but not otherwise) in addition to the lands described in the schedule to this Act any lands and hereditaments not exceeding in the whole five acres which the Council may require for the purposes of their works and undertaking but the Council shall not create or permit a nuisance on any such lands and no lands shall be used by the Council for the purpose of manufacturing gas or residual products except the lands described in the schedule to this Act.

Power to purchase lands by agreement.
Gas not to be manufactured except on lands scheduled.

12.—(1) The Council may sell let for hire or otherwise deal in fix repair and remove but shall not manufacture engines stoves ranges pipes and other fittings for lighting for motive power for the warming and ventilating of houses and buildings for the cooking of food and for all other purposes for which gas can or may be used and may provide all materials and do all work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon between the Council and

Power to supply gas fittings &c. for heating and other purposes and fittings not to be subject to distress.

A.D. 1904. — the persons to or for whom the fittings are sold let fixed up repaired or removed.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be. Provided that such fittings have upon them respectively 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 Council as the actual owners thereof.

Power to lay pipes in streets not dedicated to public use.

13. The Council may upon the application of the owner or occupier of any premises abutting on or being erected in any street laid out or made but not dedicated to the public use within the limits of supply supply such premises with gas and may lay and repair take up alter relay and renew in across or along such street such pipes as may be requisite or proper for furnishing such supply and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes so far as they are applicable for the purposes of this section shall extend and apply mutatis mutandis to and for the purposes thereof.

Power to lay down pipes for ancillary purposes.

14. The Council may lay down place repair alter remove and renew subways mains pipes culverts wires and other apparatus within the limits of supply for the purpose of procuring conducting or disposing of any oil and other materials used by them in or resulting from any manufacture of gas or any residual products thereof or for any purpose connected with their business and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid so far as applicable for the purposes of this section shall extend and apply mutatis mutandis to and for the purposes thereof.

Limiting price of gas.

15. The price to be charged by the Council for gas supplied by them to persons who shall burn the same by meter shall not at any time exceed four shillings and sixpence per thousand cubic feet.

Pressure of gas.

16.—(1) All gas supplied by the Council to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than three-fifths of an

inch and from sunset to midnight not less than four-fifths of an inch in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer. A.D. 1904.

(2) Any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment test the pressure at which the gas is supplied and may for that purpose open any street road passage or place vested in or under the control of any local or road authority and the provisions of the Gasworks Clauses Act 1871 with reference to testing of gas and to penalties shall *mutatis mutandis* apply to such testing of pressure and two hours previous notice shall be given to the Council of the time and place at which such testing shall be conducted.

17. The prescribed number of candles shall be not less than fourteen. Quality of gas.

18. A testing place or testing places shall be provided at some convenient part or parts of the gasworks of the Council or at the offices of the Council when and so soon as the Council shall construct gasworks. Testing place.

19. The prescribed burner for the purpose of testing shall be the standard burner known as Sugg's London sixteen candle Argand No. 1 Burner and in making the tests the gas shall be burned at such a rate as to give a light equal to sixteen candles Provided that before commencing the test for illuminating power the gas shall have been burning at least half an hour. Burner.

20. Every consumer of gas supplied by the Council who uses a gas engine shall if required to do so by the Council use an anti-fluctuator and shall at all times at his own expense keep such anti-fluctuator in proper order and if any consumer shall make default in complying with the provisions of this section the Council may cease to supply him with gas The Council shall have access to and be at liberty to take off remove test inspect and replace any such anti-fluctuator at all reasonable times such taking off removal testing inspecting and replacing to be done at the expense of the Council if the anti-fluctuator be found in proper order but otherwise at the expense of such consumer. Anti-fluctuators for gas engines.

21. If any person is required by the Council to give to them security for the payment of the price or rent of a meter the Council shall pay interest at the rate of four per centum per Council to pay interest on money.

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deposited as
security for
meters.

annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands.

No penalty
in case of
unavoidable
cause.

22. No penalty shall be incurred by the Council for neglect or refusal to give a supply of gas in accordance with the provisions of this Act or for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which the court having cognisance of the case are of opinion that such neglect refusal insufficiency defect or excess was caused by circumstances beyond the control of the Council or was of so slight or unimportant a character as not materially to affect the value of the supply.

Charges for
gas supplied
by means of
prepayment
meters.

23.—(1) The Council may charge for any gas supplied through a prepayment meter a not greater charge rate or rent than for gas supplied to private consumers within the limits of supply through any other kind of meter or by any other method of supply.

(2) The Council shall not charge for the hire of any prepayment meter and fittings to be used therewith any sum other than a sum of money calculated according to the quantity of gas supplied through such prepayment meters and the maximum sum to be so charged shall be at the rate of tenpence per one thousand cubic feet supplied in manner aforesaid such sum to include the hire of meter and the fittings used therewith:

The said charge shall include the providing letting fixing repairing and maintenance of the meter and fittings and the cost of collection and other costs incurred by the Council in connexion with the meter and fittings.

(3) The maximum charge for the hire of a prepayment meter without fittings shall be at the rate of fifteen per centum per annum on the cost of the meter to the Council and the provisions of this Act applicable to ordinary meters shall so far as applicable apply to prepayment meters.

(4) For the purposes of this section the expression "prepayment meter" means any meter or appliance by which the quantity of gas supplied is regulated according to the amount of money prepaid therefor.

Power to
take a supply
of gas in
bulk.

24. Subject to the provisions of this Act the Council may enter into and carry into effect agreements with the Sutton Council

or any other local authority company or person for the purchase by the Council of gas in bulk for the purposes of this Act. A.D. 1904.

25. The Council may contract with any local authority company or persons beyond the Council's limits of supply (but only with the consent in writing of the local authority of the district within which the supply is to be given and of any company or person supplying gas under parliamentary powers in that district) 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. Council may contract with local authority &c. for supply in bulk.

26. If a person requiring a supply of gas from the Council has previously quitted premises at which gas was supplied to him by the Council and has not paid all gas or meter rent due the Council may refuse to furnish to him a supply of gas until he pays the same. Power to refuse to supply persons in debt for other property.

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

28. A notice to the Council 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 Council. Notice of the effect of this enactment shall be endorsed upon all demand notes for gas rent. Notice of discontinuance.

29. 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 then current Period of error in defective meters.

A.D. 1904. quarter and the amount of the allowance to be made to or of the surcharges to be made upon the consumer by the Council shall be paid by or to the Council to or by the consumer as the case may be and shall be recoverable in the like manner as gas rents are recoverable by the Council.

Discounts. **30.** The Council may if they think fit allow discounts or rebates not exceeding in the case of discounts for prompt payment ten per centum and in the case of discounts for large consumption or in respect of gas supplied by contract or for motive power fifteen per centum upon such scale and subject to such conditions and regulations as may prescribed by the Council. Provided that such discounts or rebates shall be of equal amount under like circumstances to all consumers. Provided further that notice of the effect of this enactment shall be endorsed on every demand note for gas rent.

Dwelling-houses for persons in employ of Council. **31.** The Council may purchase or take on lease and may erect fit up maintain and let upon the lands for the time being belonging to or leased by them for the purposes of their gas undertaking dwelling-houses for persons employed by them for the purposes of their gas undertaking.

Power to take licences for use of patents. **32.** The Council may acquire take and use any leave licence or authority to work use exercise and put in practice any invention under letters patent made or to be made granting any right or privilege of working using exercising or vending any invention in relation to the production utilisation and distribution of gas the production of coke tar pitch asphaltum ammoniacal oil and the products from coal and other substances employed in or resulting from the manufacture of gas or otherwise in relation thereto but not so as to acquire any exclusive right to the working use exercising or putting in practice of any such invention.

Provisions for sale of portions of gas undertaking to other sanitary authorities. **33.** If at any time after the passing of this Act any local authority whose district is beyond the district of the Council but as to the whole or any part thereof within their limits for the supply of gas shall give not less than six months notice in writing to the Council of their desire to purchase such portion of the undertaking of the Council as is contained within the district of any such local authority and shall obtain the consent of the Local Government Board to such purchase and shall apply to Parliament or the Local Government Board for power to purchase such portion of the undertaking of the Council (except

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the mains and pipes or other apparatus which shall be necessary for supplying with gas any other part of the limits of the Council for the supply of gas) and to supply gas within such district then it shall not be lawful for the Council to oppose such application (except as to the details thereof) and if such powers of purchase and supply be granted the Council shall sell and such local authority shall purchase the portion of the undertaking of the Council (except as aforesaid) within the district of such local authority at such price being a sum in gross and upon such terms and conditions as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Acts Any such purchase shall be deemed to be a purpose of the Public Health Act 1875 except so far as the same may be otherwise provided for by Parliament The Council shall apply the proceeds of any sale under this section in the same manner as they are required to apply money received from sales of land under this Act Provided that after the completion of such purchase all obligations on the part of the Council to supply gas within the district of the purchasing authority shall cease and determine.

34. From and after the passing of this Act all powers of the Sutton Council to supply gas within the parish of Annesley shall cease and so much of the Act of 1878 as empowers the Sutton Council to supply gas within the said parish is hereby repealed.

Cesser of powers of Sutton Council to supply gas in parish of Annesley.

35. The Riddings District Gas Act 1888 so far as the same relates to the supply of gas to so much and such part of the parish of Selston in the county of Nottingham as is situate within the limits of supply is hereby repealed and from and after the passing of this Act all powers of the Riddings District Gas Company with reference to the supply of gas in such part of the said parish shall absolutely cease and determine.

Cesser of powers of Riddings District Gas Company to supply gas in part of Selston.

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

Power to borrow.

- (A) For the purchase of the gas undertaking of the Sutton Council and for defraying the costs charges and expenses incident to such purchase and to the transfer of the undertaking to the Council (other than the costs of this Act) the sums requisite for those purposes ;

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- (B) For the purchase of lands for and the erection of gasworks the sum of sixteen thousand pounds ;
- (C) For the extension and improvement of the gasworks of the Council the sum of twelve thousand pounds ;
- (D) For working capital the sum of two thousand pounds ;
- (E) For paying the costs and expenses of this Act 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 otherwise in relation to their gas undertaking.

(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 gas undertaking and if they think fit as a collateral security the district fund and general district rate of the district.

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

37. 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.

Mode of raising money.

38. The Council 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 mortgages to apply.

39. Sections 236 to 239 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.

40. The Council shall pay off all money 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 money borrowed for the purposes (A) and (B) mentioned in the section of this Act the marginal note whereof is "Power to borrow" within thirty-five 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 thirty years from the date or dates of the borrowing of the same; A.D. 1904.

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

As to money borrowed for the purpose (e) in the said section mentioned within five years from the passing of this Act;

As to moneys borrowed with the sanction of the Local Government Board within such period not exceeding sixty years as that Board may in each case prescribe.

41. 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 combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them and subject to the provisions of this Act 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. Mode of payment off of money borrowed.

42.—(1) If the Council 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

A.D. 1904. invested in statutory securities the Council 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 Council towards the equal annual payments to the fund.

(4) The Council 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 Council 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.

(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 Council :

(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 Council in addition to the payments provided for by this Act.

(7) If it appears to the Council 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 Council 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 Council shall increase the payments to such extent as the Board may direct.

(8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund. A.D. 1904.

(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 Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such amount 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 Council may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct.

(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 Council with the consent of the Local Government Board may determine.

43. A person lending money to the Council under this Act shall not be bound to inquire as to the observance by the Council 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.

44. The Council 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 Council shall be 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 Council not to regard trusts.

A.D. 1904. or transfer of such loan or security or any part thereof or any interest thereon not entered in their register.

Power to re-borrow.

45. The Council may except as herein-after provided re-borrow for the purpose of paying off any moneys borrowed or re-borrowed under this Act which have not been repaid and are intended to be forthwith repaid or in respect of any moneys which have been repaid by the temporary application of funds at the disposal of the Council within twelve months before the re-borrowing and which at the time of the repayment it was intended to re-borrow. Provided that the Council shall not have power to re-borrow for the purpose of paying off any moneys repaid by instalments or annual payments or by means of a sinking fund or out of moneys derived from the sale of land or out of any capital moneys properly applicable to the purpose of such repayment other than moneys borrowed for that purpose. Provided also that any moneys re-borrowed shall be deemed to form the same loan as the money for the repayment of which the re-borrowing has been made and shall be repaid within the prescribed period.

Return to Local Government Board as to repayment of debt.

46.—(1) The clerk of the Council shall within twenty-one days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act or in respect of any money raised thereunder and at any other time when the Local Government Board may require such a return to be made transmit to the Local Government Board a return in such form as may be prescribed by that Board and if required by that Board verified by statutory declaration of the clerk of the Council 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 or of the sums 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 his failing to make such return the clerk of the Council shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court. A.D. 1904.

(2) If it appears to the Local Government Board by that return or otherwise that the Council 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 (whether such instalment or annual payment or sum is required by this Act or by the Local Government Board in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes 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.

47. All moneys borrowed by the Council 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. Application of money borrowed.

48. The Council shall apply all moneys from time to time received by them in respect of any sales exchanges or disposition of lands acquired by them under this Act or by way of fine or premium or any lease of such lands in or towards paying off moneys borrowed and for the time being owing under this Act or if there shall be no moneys owing under this Act such proceeds shall be applied in or towards paying off any other moneys for the time being owing by the Council and such proceeds shall not be applicable to the payment 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. Application of moneys arising from sale of lands.

49. The Council shall apply all money received by them in respect of their gas undertaking except money borrowed and Application of revenue of gas undertaking.

A.D. 1904. money received 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 gas undertaking ;

Secondly In payment of the interest on moneys borrowed by the Council for the purposes of their gas undertaking ;

Thirdly In providing the requisite appropriations instalments or sinking fund payments in respect of moneys borrowed by the Council for the purposes of their gas undertaking ;

Fourthly In extending improving and constructing (if the Council think fit) any works for the purposes of their gas undertaking ;

Fifthly In providing a reserve fund (if the Council think fit) by setting aside such money as they think reasonable and investing the same and the resulting income thereof in statutory securities and accumulating the same at compound interest until the fund so formed amounts to one-fifth of the aggregate capital expenditure for the time being upon the gas undertaking of the Council which fund shall be applicable to answer any deficiency at any time happening in the income of the Council from their gas 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 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 Council shall carry to the district fund so much of any balance remaining in any year of the income of their gas undertaking (including the interest on the reserve fund when such fund amounts to one-fifth of the said aggregate capital expenditure) as may in the opinion of the Council not be required for carrying on improving or extending their gas undertaking and paying the current expenses connected therewith.

As to deficiency in receipts.

50. Any deficiency in the revenue of the Council on account of their gas undertaking shall be made good out of the general

district rate or rates made next after each such deficiency is ascertained. A.D. 1904.

51. Any expenses of the execution by the Council of this Act with respect to which no other provision is made may be defrayed by the Council out of the district fund and general district rate. Expenses of execution of Act.

52. Section 58 of the Local Government Act 1894 shall apply to the accounts of the Council and their committees and officers under this Act and to the audit of such accounts. Audit of accounts.

53. — (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 purpose 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. Inquiries by Local Government Board.

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

54. All penalties recovered under this Act or under any byelaw thereunder shall except in the case of penalties recovered against the Council be paid to the treasurer of the Council and be by him carried to the credit of the gas undertaking. Application of penalties.

55. — (1) Where any notice or demand under this Act requires authentication by the Council the signature of the clerk or other duly authorised officer of the Council shall be sufficient authentication. Authentication and service of notices.

(2) Notices demands orders and other documents required or authorised to be served under this Act may be served in the same manner as notices under the Public Health Act 1875 are by section 267 of that Act authorised to be served Provided that in the case of any company any such notice demand order or document shall be delivered or sent by post addressed to the secretary of the company at their principal office or place of business.

A.D. 1904.
Expenses of
Act.

56. The costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act shall after taxation by the taxing officer of the House of Lords or of the House of Commons be paid by the Council out of moneys to be borrowed by the Council under this Act but may in the first instance be paid by the Council out of any of their rates or funds and moneys so paid shall be recouped by and charged to the moneys to be borrowed under this Act.

The SCHEDULE referred to in the foregoing Act.

LANDS ON WHICH THE COUNCIL MAY ERECT AND MAINTAIN
GASWORKS AND MANUFACTURE GAS AND RESIDUAL PRODUCTS AND
STORE GAS.

Lands belonging or reputed to belong to the Council containing by admeasurement four and a-half acres or thereabouts situate in the parish and urban district of Kirkby-in-Ashfield in the county of Nottingham and numbered on the $\frac{1}{2500}$ Ordnance (Nottinghamshire Sheet XXVII. (2) 2nd edition 1900) 267 (part of) 268 269 and 270 (part of) bounded on or towards the north by land belonging or reputed to belong to the Midland Railway Company numbered 227 on the before-mentioned Ordnance sheet on or towards the west partly by the said land numbered 227 partly by other land belonging or reputed to belong to the Midland Railway Company numbered 266 on the before-mentioned Ordnance sheet and partly by houses and gardens belonging or reputed to belong to the representatives of the late Mrs. Eliza Oscroft on or towards the south partly by the road known as Urban Road and partly by a cottage and garden belonging or reputed to belong to William Brooks and on or towards the east by the Nottingham and Mansfield line of the Midland Railway Company.

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