



CHAPTER clxxxiv.

An Act to confirm and legalise the construction of certain waterworks constructed by the urban district council of Malvern for the supply of water to their district to authorise the Council to construct additional waterworks for the supply thereof and for other purposes. A.D. 1905.

[4th August 1905.]

WHEREAS by the Malvern Improvement Act 1851 (in this Act referred to as "the Act of 1851") commissioners were appointed for carrying that Act into execution within certain parts of the parish of Great Malvern in the county of Worcester:

And whereas the said Act confers general powers upon the commissioners for the improvement of the district included within the limits of that Act and amongst other powers it authorises them to construct waterworks:

And whereas in the year one thousand eight hundred and sixty-seven the commissioners adopted the provisions of the Local Government Act 1858 and became a local board (hereinafter referred to as "the local board") and the district of the local board under and by the authority of the Public Health Act 1875 became an urban sanitary district of which the local board were the urban sanitary authority:

And whereas by the Malvern Water Act 1891 (in this Act referred to as "the Act of 1891") the local board were authorised to construct additional waterworks for the supply of their district:

And whereas under the Local Government Act 1894 the urban district council of Malvern (in this Act called "the Council") are the successors of the local board:

A.D. 1905.

And whereas by the Malvern Link (Extension and Water) Act 1896 (in this Act referred to as "the Act of 1896") the Malvern Link Urban District in the county of Worcester was extended and the Malvern Link Urban District Council were authorised to construct for the supply of the extended district the waterworks therein mentioned which are described in the said Act as Works Nos. 1 to 24 respectively and were shown on the plans and sections deposited in connection with the Bill for that Act:

And whereas by the Malvern Urban District Council Order 1898 confirmed by the Order of the Local Government Board intituled the County of Worcester (Hanley Castle and Malvern Urban Extension) Confirmation Order 1898 it was ordered that as from the appointed day therein mentioned the Malvern Link Urban District should be united with the Malvern Urban District and be under the jurisdiction of the Malvern Urban District Council and that all the rights duties liabilities obligations and property attached to or vested in the Malvern Link Urban District Council should pass to and vest in the Council and that the Malvern Link Urban District Council should cease to exist:

And whereas by the County of Worcester (Application of Local Acts and Provisional Orders to Malvern Urban District) Order 1899 confirmed by an Order of the Local Government Board intituled the County of Worcester (Malvern Urban District) (Application of Local Acts and Provisional Orders) Confirmation Order 1899 it was ordered that from and after the date of the confirmation of the Order by the Local Government Board the Acts of Parliament set out in the first schedule to the Order including (amongst others) the Act of 1851 and the Act of 1891 (so far as the same were applicable and not inconsistent with the provisions of the Acts of Parliament set out in the second part of the said schedule) and the Acts of Parliament set out in the second part of the said schedule including (amongst others) the Act of 1896 (so far as the same were applicable and not inconsistent with the provisions of the Acts of Parliament set out in the first part of the said schedule) should be extended to and be applicable and in force within all parts of the Malvern Urban District in which the same respectively were not then applicable and in force in the same manner and with the like effect in all respects as if the district to which the said Acts respectively related had been the Malvern Urban District And it was by the same Order further ordered that the expression

‘the water limits’ in the Act of 1891 should mean the Malvern Urban District and that the expression ‘the limits of this Act for the supply of water’ in the Act of 1896 should include in addition to the limits as defined by that Act that part of the Malvern Urban District which was not comprised in the extended district as defined by the Act of 1896 and that the expressions ‘the Malvern District’ ‘the extended district’ ‘the district’ ‘the district council’ ‘the Council’ ‘the district fund’ and ‘the general district rate’ respectively in the said Acts respectively should mean the Malvern Urban District the Council and the district fund and general district rate of the Malvern Urban District respectively :

And whereas the Works Nos. 1 2 3 4 5 9 10 11 12 13 19 20 22 23 and parts of 6 8 and 14 respectively authorised by the Act of 1896 have not been constructed and the Council were advised that the construction of other works (in this Act called ‘the substituted works’) in lieu thereof would be advantageous to their district and would more effectually provide for the supply of the same with water and the Council in the belief that they were authorised under the Act of 1896 to make the substituted works in lieu of the said Works Nos. 1 2 3 4 5 9 10 11 12 13 19 20 22 23 and parts of 6 8 and 14 authorised by the Act of 1896 authorised the construction of the substituted works in the manner shown on the deposited plans and sections hereinafter mentioned and have borrowed and expended in respect thereof the sum of fourteen thousand one hundred and eighty-five pounds in the belief that they were authorised so to do under the Act of 1896 :

And whereas doubts have since arisen whether the Council were authorised by the Act of 1896 or otherwise to make the substituted works and to borrow and expend in respect thereof the said sum of fourteen thousand one hundred and eighty-five pounds :

And whereas it is expedient that such doubts should be set at rest and that the construction by the Council of the substituted works and the said borrowing and expenditure should be confirmed and legalised :

And whereas the said substituted works are the works in this Act described as Works Nos. 1 to 10 respectively :

And whereas the substituted works are all permanent works and it is expedient that the cost thereof should be spread over a period of years :

A.D. 1905.

And whereas the Council have applied a sum of one thousand six hundred pounds which they borrowed under the powers conferred on them by the Act of 1896 to the construction of a certain filter bed in the parish of Little Malvern adjoining certain other filter beds authorised by the Act of 1891 and it is expedient that such application of the said sum of one thousand six hundred pounds should be sanctioned and confirmed :

And whereas in December one thousand nine hundred and four the Council were advised that owing to the long continuance of drought it was a matter of urgent necessity in order to enable the Council to fulfil their statutory duty of providing a sufficient supply of water to their district that the construction of the works in this Act described as Works Nos. 11 and 12 (in this Act referred to as "the urgency works") should be forthwith commenced and proceeded with and the Council under the pressure of such necessity as aforesaid authorised the last-mentioned works to be forthwith commenced and proceeded with :

And whereas doubts have since arisen whether the Council have any powers to construct the urgency works and it is expedient that the construction of the same by the Council so far as the same have been completed should be confirmed and legalised and that the Council should be empowered to complete the construction thereof so far as the same remain to be completed :

And whereas estimates have been prepared by the Council for the execution of the urgency works and such estimates amount to the sum of three thousand six hundred pounds part whereof (namely) the sum of one thousand pounds has already been borrowed and expended :

And whereas the several works included in such estimates respectively are all permanent works and it is expedient that the cost of such works should be spread over a period of years :

And whereas no lands required for or in connection with the said Works Nos. 1 2 3 4 5 9 10 11 12 13 19 20 22 23 and parts of 6 8 and 14 authorised by the Act of 1896 have been acquired compulsorily by the Council :

And whereas as well the substituted works as the urgency works have all been constructed either in the public roads partly under the control of the Worcestershire County Council and partly under the control of the Council and partly under the control of the Herefordshire County Council and partly under the control of the Ledbury Rural District Council with their

respective consents or in and through certain lands with the consent or acquiescence of the owners and occupiers of such lands : A.D. 1905.

And whereas it is essential to further increase and improve the supply of water to the district without delay and that for that purpose the Council be empowered to construct the additional waterworks and other works hereinafter described and in this Act referred to as "the authorised works" :

And whereas estimates have been prepared by the Council for the purchase of lands for and the execution of the authorised works and such estimates amount to the sum of twenty thousand five hundred and twenty-two pounds part whereof namely the sum of two thousand six hundred pounds has been already borrowed and expended :

And whereas the several works included in such estimates respectively are all 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 seventeenth day of February one thousand nine hundred and five after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the *Worcestershire Daily Times* 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 :

And whereas the said resolution was published twice in the *Worcestershire Daily Times* a newspaper circulating in the district and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the fourth day of April one thousand nine hundred and five being not less than fourteen days after the deposit of the Bill in Parliament :

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

A.D. 1905.

And whereas plans and sections showing the lines and levels of as well the substituted works and the urgency works as the same respectively have been and are being constructed by the Council as the authorised works and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of as well the lands acquired or taken and used for the purposes of the substituted works and the urgency works as the lands required or which may be taken or used for the purposes or under the powers of this Act were duly deposited with the respective clerks of the peace for the counties of Worcester Gloucester and Hereford and are hereinafter referred to as the deposited plans sections and book of reference:

And whereas the purposes of this Act cannot be effected 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:—

Short title.

1. This Act may be cited as the Malvern Water Act 1905.

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 this Act (namely):—

(1) The Waterworks Clauses Acts 1847 and 1863 except—

(A) The words “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner” in clause 44 of the Waterworks Clauses Act 1847;

(B) Sections 75 to 82 of the Waterworks Clauses Act 1847 with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and section 83 relating to accounts:

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

Interpretation.

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

Words and expressions to which meanings are assigned by enactments incorporated with this Act have the same

respective meanings and for the purposes of this Act the expressions "the undertakers" and "the promoters of the undertaking" in the enactments herewith incorporated mean respectively the Council ;

The expression "the district" means the urban district of Malvern ;

The expression "the Council" means the urban district council of the district ;

The expression "the clerk" means the clerk to the Council ;

The expressions "district fund" and "general district rate" mean respectively the district fund and general district rate of the district ;

The expression "their water undertaking" or "the water undertaking of the Council" includes the water undertaking of the Council authorised by the Act of 1851 and the Act of 1891 respectively and also the water undertaking of the Council authorised by the Act of 1896 and also any other waterworks the property of the Council ;

The expression "the plans and sections of 1896" means the plans and sections deposited in connection with the application for the Act of 1896 ;

The expression "the works of 1896" means collectively the several works designated on the plans and sections of 1896 and described in the Act of 1896 as Works Nos. 1 2 3 4 5 9 10 11 12 13 19 20 22 23 and parts of 6 8 and 14 respectively ;

The expression "the substituted works" means the Works Nos. 1 to 10 as shown on the deposited plans and sections ;

The expression "the urgency works" means the Works Nos. 11 and 12 as shown on the deposited plans and sections ;

The expression "the authorised works" means the Works Nos. 13 and 14 as shown on the deposited plans and sections ;

The expression "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 debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of

A.D. 1905.
—

any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council.

Confirmation
of works as
constructed.

4. The substituted works and the urgency works are hereby confirmed and legalised and are substituted for and shall be deemed to be substituted in all respects for the works of 1896. The works so confirmed and legalised (hereinafter collectively referred to as "the legalised works") are situate in the counties of Worcester and Hereford and are the following:—

Work No. 1 An enlargement of the British Camp Reservoir by the raising of the existing dam and puddle trench at the east end thereof constructed under section 9 subsection (1) of the Malvern Water Act 1891 and known as Work No. 1 of that Act wholly within the parish of Little Malvern in the county of Worcester:

Work No. 2 An aqueduct conduit or line of pipes partly in the parish of West Malvern in the county of Worcester partly in the parish of Colwall in the county of Hereford and partly in the parish of Malvern Wells in the county of Worcester commencing in the high road leading from West Malvern to the Upper Wyche at a point two and a half chains or thereabouts north of the Royal Well Brewery connecting with and continuing a conduit or line of pipes known as Work No. 14 authorised and constructed under the Malvern Link (Extension and Water) Act 1896 and terminating at a point in the county main road from Malvern to Malvern Wells about three and a half chains south of the centre line of the Great Western Railway tunnel on the Worcester and Hereford Branch Railway and connecting with the pipe or conduit known as Work No. 5 authorised and constructed under the Malvern Water Act 1891:

Work No. 3 An aqueduct conduit or line of pipes partly in the parish of Great Malvern and partly in the parish of Malvern Link in the county of Worcester commencing in the county main road at a point opposite the Malvern Police Station and terminating at a point in the county main road one chain or thereabouts north-east of the Old Link Mill in the parish of Malvern Link aforesaid:

Work No. 4 A bore-hole pumping machinery engine-house and other works situate in the north corner of the land already purchased by the Council under the powers conferred by the Malvern Link Gas Act 1897 and numbered 731 on the $\frac{1}{2500}$ Ordnance map second edition 1904 in the parish of Leigh in the county of Worcester :

Work No. 5 An aqueduct conduit or line of pipes partly in the parish of Leigh partly in the parish of Malvern Link and partly in the parish of Great Malvern commencing at the engine-house referred to in the description of Work No. 4 in this section mentioned and terminating at or in the existing North Malvern service reservoir at North Malvern :

Work No. 6 A conduit or line of pipes wholly in the parish of Great Malvern commencing at a point in the North Malvern Road about two chains south-east of the North Malvern Hotel and below the North Malvern Reservoir and terminating at the junction of the Malvern Wells and Wyche Roads at Cherbourg House :

Work No. 7 A small catch-water reservoir pumping station machinery and other works at the Owls' Hole situate on Land No. 77 in the $\frac{1}{2500}$ Ordnance map 1893 in the parish of Little Malvern in the county of Worcester :

Work No. 8 An aqueduct conduit or line of pipes wholly in the parish of Little Malvern in the county of Worcester commencing at Work No. 7 in this section mentioned and terminating at or in the northern side of the British Camp Reservoir :

Work No. 9 An aqueduct conduit or line of pipes wholly in the parish of West Malvern in the county of Worcester commencing at a point in the West Malvern Road opposite the Dingle Spring and terminating in the same road half a chain or thereabouts north of the north end of Geneva Terrace :

Work No. 10 A well tank and aqueduct conduit or line of pipes wholly in the parish of West Malvern in the county of Worcester commencing at the Danzell Spring which is situated at the northern extremity of the plot numbered 553 on the $\frac{1}{2500}$ Ordnance map first edition 1884-5 and

A.D. 1905.

terminating in the West Malvern Road by a junction with Work No. 9 above described at a point five and a half chains or thereabouts from the termination of the said Work No. 9 :

Work No. 11 A bore-hole or bore-holes and pumping station with shafts borings buildings machinery and other works wholly situate in the parish of Leigh in the county of Worcester in the said piece of land numbered 731 on the $\frac{1}{2500}$ Ordnance map of that parish second edition 1904 at or near a point one hundred yards or thereabouts south-west of the existing bore-hole referred to in the description of Work No. 4 in this section :

Work No. 12 An aqueduct conduit or line of pipes wholly situate in the parish of Leigh in the county of Worcester commencing at Work No. 11 in this section described and terminating at Work No. 4 in this section described.

Confirmation
of purchases
of lands.

5. The purchase acquisition user or taking by the Council of the lands or of any easements in over or affecting the lands delineated on the deposited plans and described in the deposited book of reference and which or any easements in over or affecting which have been entered upon taken or used by the Council for the purpose of or in connection with the legalised works or any of them is hereby confirmed and the Council may hold enjoy and use the said lands and easements for the purposes of the legalised works and for the general purposes of their water undertaking but the Council shall not create or permit a nuisance on any of such lands.

Confirmation
of user of
gasworks
lands for con-
struction of
waterworks
thereon.

6. The user by the Council of part of certain lands purchased by them under the powers of the Malvern Link Gas Act 1897 and numbered 731 on the $\frac{1}{2500}$ Ordnance map second edition 1904 in the parish of Leigh in the county of Worcester for the purpose of constructing thereon Works Nos. 4 5 11 and 12 described in the section of this Act the marginal note whereof is "Confirmation of works as constructed" is hereby confirmed and legalised anything in the Malvern Link Gas Act 1897 or any other Act to the contrary notwithstanding Provided that the Council shall charge the account of their water undertaking with a reasonable sum by way of purchase money or rent for the said lands and shall carry that sum to the credit of their gas undertaking.

7. All or any acts done or expenditure of money whether out of the district fund or general district rate or otherwise by the Council or their officers in or towards or incidental or preliminary to the construction and carrying out of the legalised works or any of them or the purchase acquisition user or taking of the lands or easements mentioned in the section of this Act the marginal note whereof is "Confirmation of purchases of lands" shall be good and valid to all intents and purposes whatsoever as if such Acts or money respectively had been done or expended in or towards or incidentally or preliminary to the carrying out of the works of 1896 or the purchase or acquisition of lands required for those works and this Act shall be a sufficient indemnity to every member and officer of the Council for all or any such act or expenditure as in this section mentioned.

A.D. 1905.
Confirmation
of acts of
Council and
their officers.

8.—(1) Subject to the provisions of this Act the Council may in the lines and situations and according to the levels shown on the deposited plans and sections and upon the lands acquired or taken or used for the purposes of the urgency works and delineated on the said plans and described in the deposited book of reference complete the execution of such parts (if any) of the urgency works or of any of such works as are not completed at the date of the passing of this Act.

Power to
complete ur-
gency works.

(2) If any such part of the urgency works or of any of them is not completed within two years from the passing of this Act the powers by this Act granted to the Council for completing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

9. All the costs charges and expenses of and preliminary and incidental to the carrying out and execution of the urgency works so far as the same have not been paid at the commencement of this Act shall be borne and paid by the Council and defrayed by them in the first instance out of the district fund and general district rate.

Expenses of
urgency
works to be
borne by
Council.

10. Subject to the provisions of this Act the Council may in the lines and situations and according to the levels shown on the deposited plans and sections and upon the lands delineated on the deposited plans and described in the deposited book of reference (other than the lands mentioned in the section of this Act the marginal note whereof is "Confirmation of purchases of

Power to
make new
works.

A.D. 1905. lands") make and maintain the following works shown on the deposited plans and sections (that is to say):—

Work No. 13 A well or wells and pumping station with shafts borings buildings machinery tunnels headings drift-ways or adits and other works in connection therewith wholly situate in the parish of Bromsberrow in the county of Gloucester in a piece of land numbered 268 on the $\frac{1}{2500}$ Ordnance map second edition 1902 of that parish at or near a point one hundred yards north-west from the south-east corner of the aforesaid field:

Work No. 14 An aqueduct conduit or line of pipes partly in the parish of Bromsberrow in the county of Gloucester partly in the parish of Redmarley D'Abitot partly in the parish of Berrow partly in the parish of Castle Morton and partly in the parish of Little Malvern in the county of Worcester commencing at the well in the parish of Bromsberrow in the county of Gloucester referred to in the description of Work No. 13 hereinbefore in this section mentioned and terminating at the north-east corner of the British Camp Reservoir in the parish of Little Malvern in the county of Worcester.

Power to
make subsi-
diary works.

11. The Council in addition to the legalised works and to the authorised works may upon any lands for the time being belonging to them make and maintain all such cuts channels catch-waters tunnels adits pipes conduits culverts drains sluices byewashes shafts wells bores water-towers overflows waste-water channels gauges filter-beds tanks banks walls bridges embankments piers approaches buildings houses telegraphs telephones and other means of electric communication engines machinery and appliances as may be necessary or convenient in connection with or subsidiary to the legalised works or the authorised works or any of such works respectively but nothing in this section shall exonerate the Council from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them Provided that any telegraphic telephonic or other means of telegraphic communication made or maintained under this Act shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869 Provided also that the Council shall not under the provisions of this Act make or maintain any waterworks which would injure the Glyuch Brook or River Leadon.

12. In the construction of the authorised works the Council may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any roads no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding three feet upwards and ten feet downwards Provided that except for the purpose of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown in the deposited sections.

A.D. 1905.

Limits of deviation.

13.—(1) The Council may in lieu of acquiring any lands for the purpose of laying any conduits or pipes underground under the authority of this Act acquire such easements and rights in such lands as they may require for the purpose of constructing placing laying inspecting maintaining cleansing repairing conducting or managing the same and may give notice to treat in respect of such easements and rights and may in such notices respectively describe the nature thereof respectively and the several provisions of the Lands Clauses Acts inclusive of those with regard to arbitration and the summoning of a jury shall apply to such easements and rights as fully as if the same were lands within the meaning of such Acts.

Council may acquire easements only in certain cases.

(2) Provided that as regards any lands taken or used by the Council for the purpose of such conduits or pipes where they are respectively laid underground the Council shall not (unless they give notice to treat for such lands and not merely for easements therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been taken or used by the Council.

(3) Provided always that (except as to land forming part of a street) nothing in this section contained shall authorise the Council to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Council to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement only shall be endorsed with notice of this provision.

14. Subject to the provisions of this Act the Council may enter upon take and use any of the lands delineated on the

Power to take lands.

A.D. 1905. deposited plans and described in the deposited book of reference (other than the lands mentioned in the section of this Act the marginal note whereof is "Confirmation of purchases of lands") for the purposes of the authorised works.

Easement only to be acquired in portion of common lands.

15. The Council shall not permanently acquire any greater estate or interest in or over the common lands known as Malvern Hills shown on the deposited plans than a right or easement of using so much thereof as may be required for constructing the authorised works and laying down and maintaining the aqueduct conduit or line of pipes hereinbefore described in the section of this Act the marginal note whereof is "Power to make new works" across and under such common lands in manner shown on the said plans and the Council may purchase and the owners of and other persons interested in such lands shall sell to the Council such right or easement and the provisions of the Lands Clauses Acts with respect to the purchase of lands shall extend and apply to the purchase of such right or easement.

Power to acquire additional lands.

16. Subject to the provisions of this Act the Council in addition to the other lands which they are by this Act authorised to acquire may enter upon take and use compulsorily or by agreement the following lands shown upon the deposited plans and described in the deposited book of reference (that is to say):—

(1) Certain lands situate in the parish of Bromsberrow Nos. 267 268 269 270 271 272 273 274 285 and portions of 275 and 284 on the $\frac{1}{2500}$ Ordnance map of the parish of Bromsberrow second edition 1902 ;

(2) Certain lands situate in the parish of Dymock Nos. 961 981 and portions of 983 on the $\frac{1}{2500}$ Ordnance map of the parish of Dymock second edition 1902 ;

all which lands are wholly situate in the county of Gloucester.

Period for compulsory purchase of lands.

17. The powers of the Council for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Power to purchase additional lands by agreement.

18. The Council in addition to any lands which they are by this Act authorised to acquire may by agreement purchase take on lease acquire and hold for the purposes of their water undertaking any lands and any easements or rights (except easements or rights of water in which persons other than the grantors have an interest) over or in respect of lands which the Council

may deem necessary for their purposes Provided that the Council shall not under the powers of this section acquire more than twenty acres of land and that they shall not create or permit the creation of any nuisance on such lands or erect or permit the erection or user on any such lands of any buildings other than houses or buildings required for or used in connection with their water undertaking. A.D. 1905.

19. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Council any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges 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.

20. Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Council may retain hold and use for such times as they may think fit and may sell lease exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands acquired by them under this Act or any interest therein and may sell exchange or dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease or other disposition and on any exchange may give or take any money for equality of exchange. Power to retain sell &c. lands.

21. So long as any lands remain to be acquired by the Council under the authority of this Act they may so far as they consider necessary apply any capital moneys received by them on resale or exchange or by way of fine or premium on the grant or renewal of leases as aforesaid in the purchase of lands so remaining to be acquired but as to any capital moneys so received and not so applied the Council shall apply the same in or towards the extinguishment of any loan raised by them under the powers of this Act and for the time being owing and such application shall be in addition to and not in substitution Proceeds of sale of surplus lands.

A.D. 1905. for any other mode of extinguishment by this Act provided except to such extent and upon such terms as may be approved by the Local Government Board Provided that the amount to be applied in the purchase of land under this section shall not exceed the amount for the time being unexhausted of the borrowing powers conferred by this Act for the acquisition of such lands Provided further that the borrowing powers of the Council under this Act for the acquisition of such lands shall be reduced to the extent of the amount applied in the purchase of lands under the provisions of this section.

Power to
take waters.

22. Subject to the provisions of this Act the Council may collect impound take use divert and appropriate for the purposes of their waterworks all such springs streams and waters as will or may be intercepted by the legalised works or the authorised works :

Provided always but without prejudice to section 43 of the Act of 1896 and the powers therein contained that this section shall not authorise the Council to collect impound take use divert or appropriate for the purposes of their waterworks any springs streams or waters lying within one hundred yards to the east or west of a straight line drawn between a point four hundred and eighty yards due south from the south end of Hayslade Reservoir and the Wyche Cutting Provided also that the Council shall not under the powers of this Act collect impound take use divert or appropriate any of the waters of the Glynch Brook or River Leadon.

Confirming
agreement
with Newent
Council.

23. The agreement between the Council and the Newent Rural District Council set forth in the First Schedule to this Act is hereby confirmed and made binding on the parties thereto.

For protec-
tion of Earl
Beauchamp.

24. For the benefit and protection of the Right Honourable William Earl Beauchamp and his heirs and successors in estate and assigns (all of whom are in this section included in the expression "the owner") the following provisions shall unless otherwise agreed between the owner and the Council apply and have effect and be binding on the Council in the exercise of any of the powers of this Act (that is to say):—

- (1) On and after the completion of the works at Bromsberrow by this Act authorised and so long as they shall be used by the Council for supplying or supplementing the existing water supply of the area

comprised within the district in the event of the water in any existing wells on the property of the owner within a radius of half a mile of the Council's well being lowered by the pumping operations of the Council to such an extent as to necessitate the deepening of the same then the Council shall lay pipes to a point within five yards of the furthestmost cottage on the said property of the owner and give to the owner and to the lessees and tenants of the said property a free supply of water not exceeding two hundred gallons per day of twenty-four hours and the owner shall thereafter maintain the said pipes at his own expense :

- (2) If the wells at Little Lintridge Farm become depleted by reason of the pumping operations of the Council to such an extent as to necessitate the deepening of the same then the Council shall lay pipes to the farmhouse on the said farm and give to the owner and the lessees and tenants of the said farm a free supply of water not exceeding one hundred and fifty gallons per day of twenty-four hours and the owner shall thereafter maintain the said pipes at his own expense :
- (3) If the wells at Great Lintridge Farm become depleted by reason of the pumping operations of the Council to such an extent as to necessitate the deepening of the same then the Council shall lay pipes to the farmhouse on the said farm and give to the owner and the lessees and tenants of the said farm a free supply of water not exceeding one hundred and fifty gallons per day of twenty-four hours and the owner shall bear half the expense of laying such pipes from the nearest point to which pipes had previously been laid and shall thereafter maintain the said pipes at his own expense :
- (4) If any difference shall arise between the owner and the Council relating to the matters referred to in this section the same shall be determined by a single arbitrator in manner provided by the Arbitration Act 1889 such arbitrator to be nominated at the instance of either party by the President of the Institution of Civil Engineers.

A.D. 1905.

For protec-
tion of Col.
Henry and
others.

25. For the benefit and protection of Colonel Thomas Allan Henry of Haffield in the counties of Hereford and Gloucester and his heirs and successors in estate and assigns owners of the said estate of Haffield and of Daniel Hugh Clutterbuck and Colonel Philip Edmund Monckton trustees of the will of the late Frank Ricardo and as such owners of the estate of Bromsberrow Place in the counties of Gloucester and Worcester and their successors in estate and assigns (all of whom are in this section included in the expression "the owners") the following provisions shall unless otherwise agreed between the owners and the Council apply and have effect and be binding on the Council in the exercise of any of the powers of this Act (that is to say):—

- (1) If during the construction or after the completion of the works at Bromsberrow by this Act authorised and so long as they shall be used by the Council for supplying or supplementing the existing water supply of the area comprised within the district the water in any existing wells or in the three tanks fed by springs supplying water to Haffield House on the properties of the owners within a radius of one mile of the Council's well shall be materially affected by the pumping operations of the Council then the Council shall at their option either—

(A) Deepen any of the existing wells within the radius aforesaid in such a manner as to cause a free supply of water to be given from any of the said wells which may have become so materially affected; or

(B) Lay pipes to any of the premises aforesaid upon which wells already exist or to Haffield House as the case may be and give to the owners lessees and tenants of the said premises a free supply of water not exceeding in the whole for farm and other houses twenty-four gallons and for cottages fifteen gallons per head per day of twenty-four hours:

- (2) The owners shall at their own expense maintain the pipes and the pumping apparatus of any well which may have been deepened after the same has been put in working order by the Council:
- (3) The Council may cause any well or springs feeding the said three tanks included in the operation of this

section to be gauged from time to time by means of a registering float gauge or in such other manner as may be agreed so as to ascertain the level attained by the water in the well when water is not being pumped or drawn from such well or the quantity of water flowing from the said springs and the record of such gauging shall be taken by a competent person to be appointed by the Council in the presence of a competent person to be appointed by the owner of such well or spring (if after receiving from the Council one week's notice for that purpose such person be appointed and attend on behalf of the owner) and the level or quantity of the water ascertained by each such gauging shall be certified under the hands of the person or persons aforesaid and his or their certificate shall be deposited with William Masefield solicitor Ledbury or other the agent or agents for the time being of the owners and shall be deemed in conjunction with the levels shown on the plan hereinafter referred to to be the only evidence of the water levels certified in such certificate and the provisions of the Parliamentary Documents Deposit Act 1837 shall for the purposes of this Act be read and construed as if the said certificate was a writing required by the standing orders of the Houses of Parliament to be deposited with the said William Masefield or other the agent or agents for the time being of the owners :

- (4) The springs or wells which are included in the operation of this section and are entitled to the benefit thereof are those that are indicated on the plan (upon which the existing water levels therein are shown) which has been signed in triplicate by Sir James Thomas Woodhouse the Chairman of the Committee of the House of Commons to which the Bill for this Act, was in its progress through Parliament referred of which one copy has been deposited in the Parliament Office of the House of Lords and one copy in the Private Bill Office of the House of Commons and one copy has been retained by the Council :
- (5) If any difference shall arise between the owners and the Council relating to the matters referred to in this

A.D. 1905.

section the same shall be determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed by the President for the time being of the Institution of Civil Engineers.

For pro-
tection of
Colwall
Parish
Council.

26.—(1) The Council shall not in any manner interfere with the Royal Well Fountain or diminish the flow of water therefrom and will provide facilities for enabling the inhabitants of the parish of Colwall to obtain water from the Hayslade Stream through a spout or tap to be placed not less than four feet above the level of the road leading from West Malvern to the Wyche Cutting at or near the water trough adjoining the Hayslade Spring and from which the said inhabitants of the parish of Colwall have hitherto lawfully obtained a free supply of water to be not less than two gallons per minute.

(2) The Council shall within one year from the passing of this Act lay a main from their existing main at the Wyche along the Hereford Road as far as the Yew Tree Inn at the Green in the parish of Colwall and shall under and subject to the provisions of the Act of 1896 and of this Act and of the Acts incorporated therewith supply water from such main for public purposes by meter at one shilling per thousand gallons and also to all persons who may require the same for domestic purposes :

Provided that the total amount so supplied for domestic purposes shall not in any year exceed twenty gallons per head per day for the whole population of the said parish :

Provided that the Colwall Parish Council guarantee to the Council that the amount payable to the Council by them in respect of water supplied within the parish of Colwall shall amount in the aggregate during the first six years of supply under this subsection to twenty-five pounds per annum.

(3) If the Council makes default of any of the provisions of this section they shall be liable to a penalty not exceeding five pounds for every day or part of a day during which such default shall continue such penalty to be recovered summarily by the Colwall Parish Council.

(4) Section 44 of the Malvern Link (Extension and Water) Act 1896 is hereby repealed.

Confirmation
of agreement
between

27. The agreement made between the Council of the one part and the mayor aldermen and citizens of the city of Gloucester

in the county of the city of Gloucester acting by their council of the other part set forth in the Second Schedule to this Act is hereby confirmed and made binding on the parties thereto respectively and full effect may and shall be given thereto.

A.D. 1905.
Council and
corporation
of Glou-
cester.

28. The Council may make and carry into effect agreements with the owners lessees or occupiers of any lands within the drainage area of as well the legalised works as the authorised works with reference to the execution by the Council or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters by this Act authorised to be diverted collected and appropriated by the Council flowing to upon or from such lands directly or derivatively into such works.

Power to
agree as to
drainage of
lands &c.

29. The Council may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of protecting their waterworks against pollution fouling and contamination and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Act or the Lands Clauses Acts respectively but the Council shall not create or permit a nuisance on any such lands and shall not erect any buildings thereon other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their water undertaking.

Power to
hold lands
for protec-
tion of works
from pollu-
tion.

30. The Council may on the application of the owner or occupier of any premises within the limits of this Act abutting on or being erected in any street laid out but not dedicated to public use supply such premises with water and may lay down take up alter relay or renew in across or along such street such pipes and apparatus as may be requisite or proper for the furnishing of such supply.

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

31. For the purpose of executing any necessary work of repair or of cleansing or of examining any conduit or line of pipes by this Act legalised or authorised the Council may cause the water in any such conduit or line of pipes to be temporarily discharged into any available stream or watercourse.

Power for
temporary
discharge of
water into
streams.

In the exercise of the power conferred by this section the Council shall do as little damage as may be and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such power the

A.D. 1905. — amount of compensation to be settled in case of difference by arbitration under and pursuant to the Arbitration Act 1889.

Period for completion of works.

32. If the authorised works 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 to the Council for executing the said works or otherwise in relation thereto shall cease except as to so much thereof as is then completed but nothing in this section shall restrict the Council from renewing extending enlarging reconstructing or removing any of their wells tanks gauges drains sluices catchpits culverts valves washouts byewashes engines pumps apparatus machinery filter-beds mains pipes or other works or plant at any time and from time to time as occasion may require.

Legalised works and works authorised by this Act to form part of water undertaking of Council.

33. Subject to the provisions of this Act as well the legalised works as the authorised works shall for all purposes whatsoever inclusive of water rents rates and charges form part of the water undertaking of the Council and may be maintained and used by the Council in connection with any of the waterworks comprised in the water undertaking of the Council and for the purposes of any part of the water undertaking of the Council and the provisions relating to that undertaking or any part thereof contained in the Act of 1851 the Malvern Hills Act 1884 the Act of 1891 and the Act of 1896 or any other special Act or any Provisional Order confirmed by Act of Parliament or any Order under the Local Government Act 1888 confirmed by order of the Local Government Board respectively shall so far as they are applicable extend and apply to the said works.

Borrowing for substituted works confirmed.

34. The sum of fourteen thousand one hundred and eighty-five pounds borrowed by the Council for the purchase of lands for and for the construction of the substituted works shall be deemed to have been legally and validly borrowed by them as if the same had been borrowed for the purchase of lands for and for the construction of the works of 1896 and every mortgage of the district fund or general district rate or the revenue of the water undertaking of the Council or of any part of such undertaking created or granted by the Council for the purpose of raising or securing the repayment of the said sum of fourteen thousand one hundred and eighty-five pounds or any part thereof and the payment of interest thereon or on any part thereof is hereby legalised and confirmed and shall be good and valid in favour of every mortgagee or person entitled to the benefit of such mortgage.

35. The sum of one thousand pounds borrowed by the Council before the passing of this Act in connection with the construction of the urgency works and the sum of two thousand six hundred pounds borrowed by the Council before the passing of this Act in connection with the purchase of lands for the authorised works shall for all purposes whatsoever be respectively deemed to have been legally and validly borrowed and shall for all purposes whatsoever be deemed to be as to the said sum of one thousand pounds money borrowed under the section of this Act the marginal note whereof is "Power to borrow" for the construction of the urgency works and as to the said sum of two thousand six hundred pounds money borrowed under the said section for the purchase of lands for the authorised works as if that section had been in force at the times when the said sums were borrowed and the interest on the same sums respectively accrued before the passing of this Act as well as that accruing thereafter shall for all purposes whatsoever be deemed to be interest on moneys borrowed by the Council for the purposes of their water undertaking within the meaning of the section of this Act the marginal note whereof is "Application of water revenue."

A.D. 1905.
Borrowing
for urgency
and autho-
rised works
confirmed.

36. The application by the Council of the sum of one thousand six hundred pounds borrowed by them under the powers of the Act of 1896 to the purposes of and in connection with the construction of the filter-bed in the parish of Little Malvern adjoining the filter-beds authorised and constructed under the Act of 1891 is hereby sanctioned and confirmed.

Confirmation
of expendi-
ture on Lit-
tle Malvern
filter beds.

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

Power to
borrow.

- (A) For the construction of the urgency works any sum not exceeding three thousand six hundred pounds :
- (B) For the purchase of lands for and the construction of the authorised works any sum not exceeding twenty thousand five hundred and twenty-two pounds :
- (C) For paying the costs and expenses of this Act as hereinafter provided the sum requisite for that purpose :

And with the consent of the Local Government Board such further money as may be necessary for any of the purposes of this Act or otherwise in relation to their water undertaking.

(2) In order to secure the payment of the moneys borrowed under this section and the payment of the interest thereon the

A.D. 1905. Council may mortgage or charge the revenue of their water undertaking and if they think fit as a collateral security the district fund and general district rate.

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 Provided that the provisions of this Act relating to sinking funds 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 1875 as to mortgages to apply.

39. 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 the foregoing provisions of this Act.

Periods for repayment of money borrowed.

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

As to money borrowed for the purpose (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 borrowing the same:

As to money borrowed for the purpose (B) in the said section mentioned within fifty years from the date or dates of borrowing the same:

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

As to money borrowed with the consent of the Local Government Board within such period as that Board may sanction.

Mode of payment off of money borrowed.

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 Provided that it shall not be obligatory upon the Council to pay such first instalment or make such first payment to the sinking fund in respect of moneys borrowed for the purposes (A) or (B) respectively mentioned in the section of this Act of which the marginal note is "Power to borrow" until after the expiration of one year from the date of borrowing.

42.—(1) If the Council determine to repay by means of a sinking fund any money borrowed by virtue of this Act such sinking fund shall be formed and maintained either— A.D. 1905.
Sinking
fund.

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the sum for the repayment of which the sinking fund is formed. A sinking fund so formed is hereinafter 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 sum for the repayment of which such sinking fund is formed. A sinking fund so formed is hereinafter 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 statutory securities the Council being at liberty 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 sum 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

A.D. 1905. 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 sum 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 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.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the probable 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 sum 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 amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the sum 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 within the prescribed period the sum for the repayment of which the sinking fund is formed the Council may with the consent of that Board discontinue the annual payments to such sinking fund until the Board shall otherwise direct.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the sum for the repayment of which it was formed shall be applied to such purpose or purposes 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 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 or 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 encumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register.

Council not to regard trusts.

45. All mortgages and securities granted by the Council subsisting at the passing of this Act shall during their continuance have priority of charge on the security therein comprised over all mortgages and securities granted or issued under this Act.

Priority of existing mortgages.

46.—(1) Any mortgagee of the Council 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. The amount of arrears of principal due to such mortgagee or in the case of a joint application by two or more mortgagees to such mortgagees collectively to authorise the appointment of a receiver shall not be less than five hundred pounds in the whole.

Appointment of receiver.

(2) The application for the appointment of a receiver shall be made to the High Court and the court if it thinks fit may appoint a receiver on such terms as it thinks fit and may at any time discharge the receiver and otherwise exercise full jurisdiction over him.

A.D. 1905.

Power to re-borrow.

47. The Council shall except as hereinafter provided have power to 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 moneys for the repayment of which the re-borrowing has been made and shall be repaid within the prescribed period.

Return respecting sinking fund to Local Government Board.

48.—(1) The clerk 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 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 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.

(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 has 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.

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

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.

50. Section 45 (Application of waterworks rate &c.) of the Act of 1851 and section 101 (Application of water revenue) of the Act of 1896 are hereby repealed and the following provisions are substituted therefor (that is to say):—

Application
of water
revenue.

The Council shall apply all moneys received by them on account of revenue in respect of their water undertaking in manner and in the order following (that is to say):—

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

A.D. 1905.
—

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

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

Fourthly In extending or improving (if the Council think fit) any works for the purposes of their water undertaking ;

Fifthly In providing (if the Council think fit) a reserve fund for their water undertaking by setting aside such money as they from time to time 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 five thousand pounds which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Council from their water undertaking or to meet any extraordinary claim or demand at any time arising against the Council in respect of their water undertaking and so that if the fund is at any time reduced it may thereafter be again restored to the sum of five thousand pounds and so from time to time as often as such reduction happens :

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

As to deficiency in receipts.

51. Any deficiency in the revenues and receipts of the Council in respect of their water undertaking to meet any of the payments firstly secondly and thirdly enumerated in the section of this Act the marginal note whereof is "Application of water revenue" shall in the absence of a reserve fund applicable to the purpose or so far as such reserve fund is not sufficient for the purpose be from time to time made good out of the district fund and to the extent that such fund is insufficient out of the next general district rate to be made by the Council.

52. All money borrowed by the Council under the powers of this Act shall be applied only to the purposes for which it is authorised to be borrowed and to which capital is properly applicable.

A.D. 1905.
Application
of money
borrowed.

53. 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.

54. 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 Council 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 Council are authorised to borrow under the powers of this Act.

Costs of Act.

A.D. 1905. The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

ARTICLES OF AGREEMENT made and entered into this twenty-third day of May one thousand nine hundred and five between the NEWENT RURAL DISTRICT COUNCIL FOR THE NEWENT RURAL DISTRICT in the county of Gloucester hereinafter called "the Newent Council" of the one part and the MALVERN URBAN DISTRICT COUNCIL FOR THE MALVERN URBAN DISTRICT in the county of Worcester and hereinafter called "the Malvern Council" of the other part.

WHEREAS the Malvern Council are promoting a Bill to empower that council to construct additional waterworks and for other purposes under which it is proposed to construct a well and pumping station and certain tunnels or driftways aqueducts conduits and lines of pipes in the parishes of Bromsberrow and Dymock respectively in the county of Gloucester and Redmarley D'Abitot in the county of Worcester which parishes are situate within the Newent and Redmarley Rural Districts respectively the affairs of which latter rural district are under order of the Local Government Board administered by the Newent Rural District Council and to lay water mains from the said well or pumping station along certain public highways and lands situated within the above-mentioned parishes respectively by means of which the water thus conveyed will be distributed within the area of the above-mentioned Malvern Urban District :

And whereas the Newent Council apprehending that the proposed works of the Malvern Council may prejudicially affect certain of the wells in the above-named parishes of Bromsberrow Dymock and Redmarley respectively which are within the rural districts of Newent and Redmarley as aforesaid have petitioned against the said Bill :

And whereas the Malvern Council although advised that their proposed works will not have the effect apprehended by the Newent Council are willing to supply a limited quantity of water in bulk to the Newent Council for the use of the inhabitants of the parishes aforesaid in the events and on the terms hereinafter mentioned :

Now therefore it is hereby mutually agreed by and between the parties hereunto as follows :—

The Newent Council shall not further oppose the said Bill.

During the execution of the proposed works or as soon as practicable thereafter the Malvern Council shall tub or line the proposed well to a depth

of 60 feet below the natural surface of the ground or to a level of 181·00 above Ordnance datum whichever shall be the lesser distance down the said well from its opening and shall not drive from such well any tunnels headings driftways or adits within a corresponding distance to which the same has been tubbed or lined. A.D. 1905.

After the completion of the proposed works and so long as they shall be used by the Malvern Council for supplying or supplementing the existing water supply of the area comprised within the Malvern Urban District in the event of the water in any existing wells or replacement thereof in the parishes of Bromsberrow Dymock and Redmarley respectively being lowered by the pumping operations of the Malvern Council to such an extent as to necessitate the deepening of the same and after not less than three calendar months' previous notice in writing from the Newent Council of their desire to be supplied with water and stating approximately the daily quantity required the Malvern Council shall supply water in bulk to the Newent Council for the use of the inhabitants of the said parishes of Bromsberrow Dymock and Redmarley respectively in manner and upon the terms following (that is to say) :—

The Newent Council to be entitled to a continuous supply of water for the use of the inhabitants of the parishes of Bromsberrow Dymock and Redmarley respectively in such quantity as may be required by notice as aforesaid up to twenty thousand gallons per day at the rate or charge of ninepence per one thousand gallons :

And in the event of one third of the inhabitants of the hamlet of Bromsberrow Heath within a radius of three-quarters of a mile from the proposed well requisitioning the Newent Council to provide a supply of water in consequence of the water in the wells within that area having become short by means of the pumping operations of the Malvern Council the Newent Council after notice as aforesaid shall be entitled to a continuous supply of water by the Malvern Council from their mains to the extent of and not exceeding twenty gallons a head per day of the population comprised within that area free of charge Provided always that such water shall not be supplied to any consumer outside the said radius.

The water to be supplied from the Malvern Council main through a junction or junctions to be fixed at some point or points to be agreed upon or failing agreement to be determined by arbitration as hereinafter provided and to be delivered through a meter or meters to be fixed to such junction or junctions as near the Malvern Council main as practicable such junctions and meters to be provided fixed and maintained by the Malvern Council at the expenses of the Newent Council.

The said meter or meters to be open to the inspection of both parties who shall respectively be entitled to have the accuracy thereof tested but such meter or meters shall not (except in case of emergency) be removed altered or interfered with except by the Malvern Council after at least twenty-four hours' notice to or with the consent of the clerk or water inspector of the Newent Council.

A.D. 1905.

The readings of the meter or meters shall be taken quarterly on or near the four usual quarter days and shall be deemed *prima facie* and sufficient evidence of the quantity of water taken or consumed unless it shall be shown or admitted that any meter or meters is or are out of order and unreliable in which case the Malvern Council may adopt and charge for the quantity recorded by the same or the corresponding meter or meters in the corresponding quarter of the previous year and the Newent Council shall pay to the Malvern Council for all water supplied under this agreement within one calendar month after the delivery of the quarterly account for water supplied.

All mains and services that may be required for distributing the water to be supplied to the Newent Council as aforesaid to be provided laid maintained and kept in repair by and at the expense of the Newent Council.

If through leakage waste or otherwise the quantity of water delivered through the meter or meters of the Newent Council shall at any time exceed the maximum daily quantities hereinbefore mentioned or hereafter agreed upon the Malvern Council shall be entitled after giving twenty-four hours' notice to the Newent Council or their clerk to regulate the daily quantity of water supplied by giving an intermittent supply during a limited number of hours only during each day and the Newent Council shall pay to the Malvern Council any extra or special expenses that may be incurred by them in so doing:

Provided always and it is hereby agreed that the Malvern Council shall not be responsible for any stoppage or insufficiency of the water supply to the Newent Council that may be occasioned by frost failure of machinery or other accident or unavoidable cause but in any case the Malvern Council shall take all reasonable steps to resume the ordinary supply as quickly as possible.

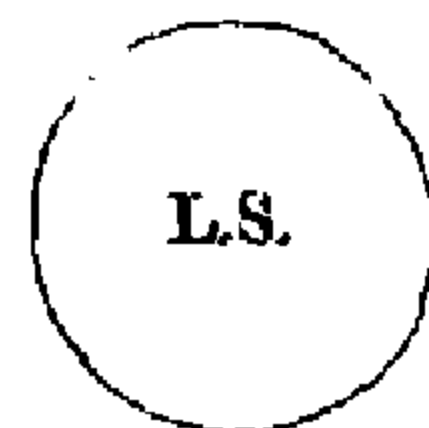
This agreement shall be scheduled to and become part of the pending Malvern Water Act (session 1905) and be subject to such alterations or modifications as Parliament may think fit to make therein but in the event of any material alteration being made by Parliament it shall be optional on either party thereto to withdraw.

If any difference shall arise between the Newent Council and the Malvern Council in regard to the construction of any of the articles herein contained or to any act or thing to be done or payment to be made in pursuance hereof or in regard to the rights or liabilities of either party hereunder or to any other matter or thing relating to this agreement or in regard to any depletion of the water in the existing wells or replacement thereof in the parishes of Bromsberrow Dymock and Redmarley respectively together with the hamlet of Bromsberrow Heath within a radius of three-quarters of a mile of the proposed well as aforesaid in consequence of and by reason of the pumping operations of the Malvern Council then such difference shall be forthwith referred to two arbitrators one to be appointed by each party according and subject to the provisions of the Arbitration

Act 1889 or any statutory modification or re-enactment thereof for the time being in force. A.D. 1905.

In witness whereof the said parties have hereunto affixed their respective common seals the day and year first above written.

The common seal of the Malvern Urban District
Council was hereunto affixed in the presence of—



H. L. WHATLEY

Solicitor and clerk to the Council.

HY. LAWSON WHATLEY

Chairman.



THE SECOND SCHEDULE.

ARTICLES OF AGREEMENT made and entered into the first day of July one thousand nine hundred and five between the MALVERN URBAN DISTRICT COUNCIL (hereinafter called "the Council") of the one part and the MAYOR ALDERMEN AND CITIZENS OF THE CITY OF GLOUCESTER in the county of the city of Gloucester acting by their council (and hereinafter called "the corporation") of the other part.

WHEREAS the Council are promoting a Bill in Parliament intituled "A Bill to confirm and legalise the construction of certain waterworks constructed by the urban district council of Malvern for the supply of water to their district to authorise the Council to construct additional waterworks for the supply thereof and for other purposes" whereby it is proposed to empower the Council to enter upon take and use certain lands in the parishes of Bromsberrow and Dymock in the county of Gloucester and to make and maintain certain waterworks including—

Work No. 13 A well or wells and pumping station with shafts borings buildings machinery tunnels headings driftways or adits and other works in connection therewith wholly situate in the parish of Bromsberrow in the county of Gloucester in a piece of land numbered 268 on the $\frac{1}{25000}$ Ordnance map second edition 1902 of that parish at or near a point one hundred yards north-west from the south-east corner of the aforesaid field;

and also to collect impound take use divert and appropriate for the purposes of their waterworks all such springs streams and waters as will or may be intercepted by the works proposed to be legalised or authorised by the said Bill:

And whereas the corporation have petitioned against the said Bill as they apprehend that the proposed works of the Council may prejudicially

A.D. 1905. affect the existing well of the corporation in the parish of Oxenhall in the county of Gloucester and certain additional works which they propose to make and maintain for the purpose of providing a further supply of water for the city of Gloucester and the limits of water supply of the corporation as defined by the Gloucester Corporation Act 1894 and also for the purpose of better enabling the corporation to comply with the provisions of the agreement set forth in the First Schedule to the said Act under which the corporation are bound to supply water under certain conditions for the use of the inhabitants of the town of Newent and of the parishes of Newent Oxenhall Dymock and Pauntley in the said county of Gloucester :

And whereas the corporation have agreed with the Council to withdraw their opposition to the said Bill upon the terms hereinafter appearing :

Now therefore it is hereby agreed by and between the parties hereto as follows :—

1. The corporation shall not further oppose the said Bill.
2. If the said Bill shall pass into law nothing therein contained shall be held to prejudice any application which may be made by the corporation to the Local Government Board or to Parliament for the purpose of sinking a well or wells or other works for obtaining a supply of water at any point to the south or south-west of the boundary line hereinafter described and the Council shall not oppose any such application.
3. The corporation shall not oppose any application which may be made by the Council to the Local Government Board or to Parliament for the purpose of sinking a well or wells or other works for obtaining a supply of water at any point to the north or north-east of the boundary line hereinafter described.
4. The boundary line hereinbefore referred to shall follow the centre of the River Leadon from its nearest point to the parish church of Dymock eastwards until the river abuts upon the south-western corner of field numbered 545 on the $\frac{1}{2500}$ Ordnance map second edition 1902 of the parish of Dymock thence in a direct line to the south-western corner of field numbered 552 on the said map thence along the southern boundary of fields 552 and 557 on the said map to the centre of the road leading from Ryton to Ketford thence in a southerly direction along the centre of such road to the north-west corner of field numbered 99 on the $\frac{1}{2500}$ Ordnance map second edition 1903 of the said parish and thence along the northern and eastern boundaries of the fields numbered 99 and 100 on the last-mentioned map to the River Leadon and thence along the centre of the said river until it abuts upon the most western point of field 137 on the $\frac{1}{2500}$ Ordnance map second edition 1903 of the parish of Pauntley and thence along the western boundary of the said field numbered 137 and the western and southern boundaries of field numbered 136 on the said map to the public highway from Payford Bridge to Upleadon and thence along such highway as far as the boundary fence between the fields numbered 105 and 124 and thence along the western and southern boundaries of the said field numbered 124 and the southern boundary of field numbered 125 on the said map to the River Leadon and thence along the centre of the said river to its nearest point to Upleadon Church.

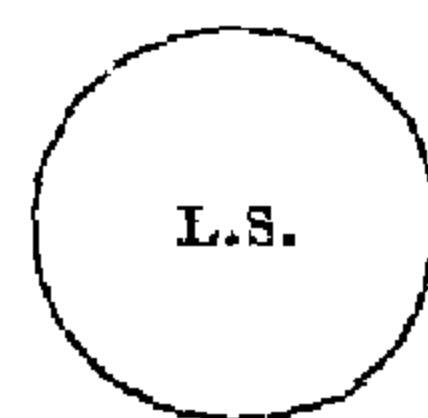
A.D. 1905.

5. The corporation shall not at any time without the written consent of the Council sink any well or drive any tunnel heading or adit on the left side of the River Leadon following the direction in which it flows where it forms the said boundary line or on the northern side of such boundary line where it does not follow the said river or within one mile of the bridge carrying the public highway over the said river at Payford. The Council shall not at any time without the written consent of the corporation sink any well or drive any tunnel heading or adit on the right side of the said river following the direction in which it flows where it forms the said boundary line or on the southern side of such boundary line where it does not follow the said river or within one mile of either of the following points (that is to say) (1) the ford or point at which the public highway crosses the said river at Ketford and (2) the point of intersection of the three roads which meet opposite the Wesleyan chapel at Pool Hill. Neither the corporation nor the Council shall at any time without the written consent of the other of them sink any well or drive any tunnel heading or adit within one third of a mile of Durbridge farm-house.

6. This agreement is made subject to such alterations as Parliament may think fit to make therein but if the Committee on the Bill make any material alteration therein it shall be competent to either party to withdraw the same.

In witness whereof the said parties hereto have hereunto affixed their respective common seals the day and year first above written.

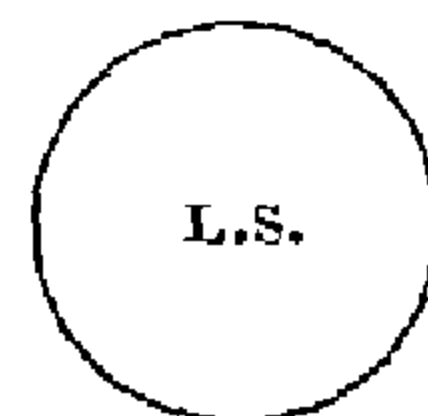
The common seal of the Council was hereunto affixed }
in the presence of—



H. F. LAMBERT Bart.
Chairman.

H. L. WHATLEY Solicitor
Clerk to the Council.

The common seal of the corporation was hereunto affixed }
in the presence of—



W. LANGLEY SMITH
Mayor.

GEO. SHEFFIELD BLAKEWAY
Town Clerk.

Printed by EYRE and SPOTTISWOODE,
FOR

ROWLAND BAILEY, Esq., M.V.O., I.S.O., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
WYMAN AND SONS, LTD., FETTER LANE, E.C.; or
OLIVER AND BOYD, EDINBURGH; or
E. PONSONBY, 118, GRAFTON STREET, DUBLIN.