

**CHAPTER cxxxvi.**

An Act to authorise the Urban District Council of Malvern Link to supply Gas and to provide for the Transfer of the Undertaking of the Malvern Link Gas Company Limited to the Council. A.D. 1897.
[15th July 1897.]

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

And whereas the district of the Council and the parishes of Leigh Mathon and Madresfield in the county of Worcester and Cradley in the county of Hereford are for the purposes of gas supply within the limits of supply of the Malvern Urban District Council and it is expedient that the powers of that Council for such purposes should be repealed and that the Council should be empowered to supply gas within their district and also within the parishes of Leigh Mathon Newland Madresfield and Bransford in the county of Worcester and Cradley in the county of Hereford:

And whereas the Malvern Link Gas Company Limited (in this Act called "the Company") was incorporated under the Joint Stock Companies Acts 1856 to 1858 for the purpose of supplying the district of the Council and other places with gas:

And whereas the capital of the Company consists of ten thousand pounds consolidated stock and the Company have borrowed on mortgage the sum of one thousand five hundred pounds:

And whereas the Company have erected gasworks upon the land described in the schedule to this Act or some portion thereof and are now supplying gas within the district and the adjoining neighbourhood:

And whereas it is expedient that the undertaking of the Company should be transferred to and vested in the Council in manner provided by this Act and that further powers should be conferred

A.D. 1897. upon the Council with respect to the supply of gas within the limits prescribed by this Act and that the Council should be empowered to improve the existing gasworks of the Company to meet the growing demands of the inhabitants within the limits of supply :

And whereas an absolute majority of the whole number of the Council at a meeting held on the twenty-seventh day of October one thousand eight hundred and ninety-six after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Worcester Daily Times a local newspaper published or 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 general district fund or rate of the district :

And whereas such resolution was published twice in the Malvern Advertiser 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 fifteenth day of February one thousand eight hundred and ninety-seven being not less than fourteen days after the deposit of the Bill for this Act in Parliament :

And whereas the owners and ratepayers of the district by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act :

And whereas the objects aforesaid 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 Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

PRELIMINARY.

Short title. 1. This Act may be cited as the Malvern Link Gas Act 1897.

Incorporation of Acts. 2. The following Acts and parts of 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) :—

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 except section 38 relating to accounts):

And the Gasworks Clauses Act 1871 (except section 7 relating to shareholders section 8 relating to the appointment of a receiver and section 35 relating to accounts &c.) shall apply to the gas undertaking of the Council. A.D. 1897.

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

The expression "the undertakers" means the Council:
And in this Act unless the context otherwise requires—

The expression "the undertaking of the Company" includes all the gasworks engines mains pipes and machinery lands and buildings plant fixed and movable and all other the real and personal property assets and effects of whatever nature and all the rights powers and privileges vested in or belonging to or had or enjoyed by the Company at the date of the transfer of the undertaking of the Company to the Council under the provisions of this Act except cash in hand and at bankers securities for money and reserve fund if any and debts due to the Company the books and papers relating exclusively to the shareholders in and the constitution of the Company and the stock-in-trade coal and other stores which shall be taken over at a valuation at the date of transfer;

"The district" means the urban district of Malvern Link as extended by the Malvern Link (Extension and Water) Act 1896;

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

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or the Acts wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

TRANSFER OF UNDERTAKING.

4. The agreement dated the twenty-third day of November one thousand eight hundred and ninety-six and made between the Company of the one part and the Council of the other part as set forth in the Second Schedule to this Act is hereby confirmed and the Company shall sell and the Council shall purchase the undertaking of the Company for such price or consideration being a sum Company to sell their undertaking to Council.

A.D. 1897. in gross and on such terms and conditions as shall be determined by arbitration in accordance with the provisions of the Arbitration Act 1889.

On payment
of purchase
money
undertaking
to vest.

5. On payment by the Council of the purchase money in accordance with the provisions of this Act the undertaking of the Company shall by virtue of this Act become and shall thenceforth be transferred to and vested in the Council subject and according to the provisions of this Act and free as between the Company and the Council from all debts and liabilities affecting the same due from or payable by the Company (other than the mortgage debt of one thousand five hundred pounds aforesaid) up to the time of such transfer and thenceforth the Council shall have and hold the undertaking.

Receipt for
purchase
money.

6. The receipt in writing of three of the directors of the Company for the purchase money or any other sum 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 and on such payment the Company shall forthwith proceed to take the necessary steps for a voluntary winding up of their affairs. 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 High Court to an account to be opened in the matter of this Act and a receipt given to the Council by the cashier of the said bank for the money shall have the same effect as the receipt of the said three directors.

Council to
take over
mortgage
debt of the
Company.

7. The Council shall from the date of transfer take over the mortgage debt of the Company amounting to one thousand five hundred pounds and shall relieve the Company from all liability for payment of the same and all interest accruing thereon from the date of transfer and the said mortgage debt shall after the transfer continue to be charged on the revenue of the undertaking of the Company by this Act vested in the Council in the same manner in all respects as before such transfer.

Company to
pay out-
goings and to
be entitled
to receipts up
to vesting.

8. The Company shall pay and discharge all outgoings and liabilities of every kind properly chargeable to revenue including interest on their mortgage debt up to the date of transfer and shall be entitled to all rents rates and other receipts on revenue account from the undertaking up to that date and where necessary for the purpose of giving effect to this enactment such outgoings rents rates and receipts shall be apportioned between the Company and the Council.

9. No contract with respect to any matter connected with the undertaking made by the Company (except such contracts as have heretofore been customary to enable the Company to carry on its business) subsequently to the twenty-third day of November one thousand eight hundred and ninety-six shall be valid unless it shall be confirmed by the Council within one month after the date of transfer.

A.D. 1897.
Contracts made after November 23rd 1896.

10. If at the date of the transfer any action or proceeding or any cause of action or proceeding is pending or existing by or against or in favour of the Company the same shall not abate or be discontinued or in anywise prejudicially affected by reason of the transfer or of anything in this Act but the same may be continued prosecuted and enforced by or against or in favour of the Council as and when it might have been continued prosecuted and enforced by or against or in favour of the Company if this Act had not been passed but as between the Company and the Council the Company shall indemnify the Council against any action or proceeding against the Company and shall be entitled to the benefit of any action or proceeding in favour of the Company which shall be pending at the time of the transfer.

Liabilities and actions &c. by or against Company.

11. Except as is by this Act otherwise specially provided all purchases sales conveyances grants assurances deeds contracts bonds and agreements (including an agreement dated the twentieth of August one thousand eight hundred and ninety-six and made between the Great Western Railway Company and the Company for the supply of gas to the railway company) entered into or made and subsisting at the time of the transfer and then in force shall be as binding and of as full force and effect in every respect against or in favour of the Council and may be enforced as fully and effectually as if instead of the Company the Council had been a party thereto.

Contracts of Company to be binding on Council.

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

Books &c. to remain evidence.

13. The Company shall hold the purchase money and all other sums of money paid to them by the Council under this Act in trust to pay apply and distribute the same amongst the shareholders or stockholders of the Company according to their respective holdings and for the purpose of such distribution the several persons whose names shall appear in the books of the Company at the date of the transfer to be the proprietors of shares or stock

Application of purchase money.

A.D. 1897. — therein unless the contrary be proved to the satisfaction of the directors shall be considered to be shareholders or stockholders of the Company and the receipt in writing of such persons or of their executors or administrators or of the committee or guardian of the estate of any of such persons who shall be an idiot lunatic or minor shall be an effectual discharge to the Company and the directors thereof for the money therein expressed to be received and shall exonerate them from any obligation affecting the share stock or interest in respect whereof that money is paid.

Transitory provisions.

14. Until the date of transfer the undertaking shall be carried on by the Company according to the ordinary course of their business and the Company shall not make any payment or do any act not necessary in the ordinary course of their business or by reason of which the Council upon the transfer may be in any way injured or prejudicially affected and the Company shall keep all works and property forming part of the undertaking (other than any disused works) in good and substantial repair and condition.

Compensation to manager and secretary.

15. If the present manager or secretary of the Company or either of them suffer any loss of office or diminution of salary or emoluments by reason of the transfer of the undertaking by this Act authorised the Council shall compensate them or him in respect of such loss the amount of such compensation in case of difference to be settled by arbitration under the Arbitration Act 1889 If the said manager or secretary shall at any time after the said transfer be discharged or shall resign by reason of age or permanent incapacity it shall be lawful for the Council to pay to the said manager or secretary as the case may be such pension as the Council shall think fair and equitable having regard to the length of service of such manager or secretary with the Company as well as with the Council not exceeding two-thirds of his salary and emoluments.

Purposes for which the Company to continue incorporated.

16. From and after the date of transfer the Company shall subsist only for the purpose of recovering and enforcing payment of the rates rents charges and other revenues due or owing to the Company previous to that date and of receiving and recovering the sums payable by the Council to the Company as provided by the agreement and paying all debts and liabilities on revenue account which may be due by the Company and declaring and paying their dividends up to the date of transfer and for winding up the affairs of the Company and carrying into effect the purposes of this Act so far as they relate to the Company and the directors of the Company who are in office at the date of transfer and the survivors and survivor of them shall continue without re-election to

hold the office of directors of the Company and they or a majority of them shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned. A.D. 1897.

GAS SUPPLY.

17. The limits of this Act for the supply of gas (in this Act referred to as "the gas limits") shall be and include the district and the parishes or places of Leigh Mathon Newland Madresfield and Bransford in the county of Worcester and Cradley in the county of Hereford. Provided that the Council shall be at liberty to supply gas to such part of the district of the Malvern Urban District Council as was on the eighteenth day of March one thousand eight hundred and ninety-seven actually supplied by the Malvern Link Gas Company but save as aforesaid the Council shall not from and after the passing of this Act supply gas within the Malvern Urban District and the Malvern Urban District Council shall be at liberty to supply gas to such part of the district of the Council as was on the eighteenth day of March one thousand eight hundred and ninety-seven actually supplied by the Malvern Urban District Council but save as aforesaid the Malvern Urban District Council shall not from and after the passing of this Act supply gas within the limits prescribed by this Act. Limits of supply.

18. For the protection of the Malvern Urban District Council (in this section referred to as "the Malvern Council") the following provisions notwithstanding anything to the contrary in this Act shall have effect:— For the protection of the Malvern Urban District Council.

- (1) Where any gas main or pipe belonging to the Council shall be within the Malvern Urban District sections 6 to 12 inclusive of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall apply to the breaking up by the Council of any street or road wherein any such main or pipe may be laid in like manner as if such sections were incorporated in this Act with reference to such street or road and the same was within the gas limits of the Council:
- (2) The Council shall not supply gas within the parishes of Guarlford and Hanley Castle except to the house and premises in the parish of Guarlford known as "Link End":
- (3) The gas main in that portion of the Worcester Road which is within the Malvern Urban District need not be taken up or removed by the Council and in the event of the public lighting of the said road being at any future time done by the Malvern

A.D. 1897.

Council the gas main aforesaid shall be used solely for the purpose of supplying gas to such of the houses in the said road as are within the Malvern Link Urban District:

- (4) The Malvern Council may at any time after the transfer of the undertaking on giving three calendar months' previous notice in writing to the Council require them to discontinue the public lighting of so much of the Worcester Road as is within the Malvern Urban District and at the expiration of such period of three months the Council shall cease to do the public lighting of that portion of the Worcester Road.

Powers as to maintenance of gasworks &c.

19. Subject to the provisions of this Act the Council may from time to time maintain alter improve enlarge extend and renew or discontinue the existing gasworks upon the lands on which the same are erected or any part thereof and which form part of the lands described in the First Schedule to this Act and may upon such lands also construct maintain alter improve enlarge extend and renew or discontinue other gasworks retorts gasometers receivers drains sewers mains pipes meters lamps lamp posts burners stop-cocks machinery and other works and apparatus and conveniences and may upon any of the lands aforesaid do all such acts as they may think proper for making and storing gas and for supplying gas within the gas limits and may make store and supply gas accordingly and may manufacture sell provide supply and deal in coke culm tar pitch asphaltum ammoniacal oil and all other products or residuum of any materials employed in or resulting from the manufacture of gas and also meters stoves ranges fittings tubes pipes and other articles and things connected with gasworks or with the supply of gas as they may from time to time think fit.

For protection of the Great Western Railway Company.

20. The following provisions for the protection of the Great Western Railway Company shall be in force and have effect:—

- (1) In laying down and executing or in effecting the repairs and renewals of any mains pipes or other works upon across over under or in any way affecting the railways lands or property now or hereafter belonging to or used or occupied by such railway company or the bridges approaches viaducts stations or other works or any level crossings of such railway company the same shall be done under the superintendence and to the reasonable satisfaction of the principal engineer of such railway company and only according to plans to be submitted to and in such manner as shall be previously reasonably approved by him and in all things by and at the expense of the Council who also shall restore and make good the roads over any such bridges level crossings and approaches which such railway company are or may be liable to maintain and which may be disturbed or

interfered with by or owing to any operations of the Council and all such works matters and things shall be constructed executed and done so as not to cause any injury to such railways bridges level crossings approaches viaducts stations works lands or property or interruption to the passage or conduct of traffic over such railways or at any station thereon: A.D. 1897.

Provided that where any mains or pipes require to be laid under or over any level crossing of their railway the railway company may if they elect so to do themselves lay such mains or pipes at the costs charges and expenses of the Council:

(2) And if any such injury or interruption shall arise from or be in any way owing to any of the acts operations matters and things aforesaid or the bursting leakage or failure of any such mains pipes or works the Council shall make compensation in respect thereof to such railway company the amount of such compensation together with full costs to be recoverable from the Council by all and the same means as any simple contract debt is recoverable:

(3) If any difference shall arise between the Council and the railway company as to the mode of laying down repairing altering or enlarging their mains pipes or other works or the facilities to be afforded for the same such difference shall be settled by an engineer to be appointed by the Board of Trade at the request of either party.

21. The Council may by agreement take purchase and hold for the general purposes of their gas undertaking any lands within their limits of supply not exceeding in the whole five acres in extent or any easement in over or under any such lands Provided that the Council shall not upon any such lands create or permit any nuisance and that no buildings shall be erected on such lands except such as are required for or are connected with the purposes of the Council's gasworks and that no lands shall be used by the Council for the purpose of manufacturing gas or residual products except the lands described in the First Schedule to this Act. Purchase of lands by agreement.

22. The Council shall not under the powers of this Act purchase or acquire in any urban district or in any parish or part of a parish not being within an urban district ten or more houses which on the fifteenth day of December next before the passing of this Act were occupied either wholly or partly by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied For the purposes of this section the expression "labouring class" includes mechanics artisans Restriction on taking houses of labouring class.

A.D. 1897. labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

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

23. The Council may purchase provide supply sell let for hire and otherwise deal in and fix set up alter remove and re-fix gas meters and fittings gas engines stoves ranges pipes and other apparatus and appliances articles and things for lighting motive power the warming and ventilation of houses and buildings the cooking of food and for all other purposes for which gas can or may be used and may require and take such remuneration in money or such rents and charges for and make such terms and conditions with respect to the sale supply letting fixing setting up altering or removing of such meters fittings engines stoves ranges pipes and other apparatus and appliances articles and things as aforesaid and for securing their safety and return to the Council as may be agreed upon between the Council and the person to or for whom the same are sold supplied let fixed set up altered or removed.

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

24. If a person requiring a supply of gas has previously quitted premises at which gas was supplied to him by the Council without paying all gas or meter rent due from him the Council may refuse to furnish to him a supply of gas until he pays the same.

Gas consumers to give notice to Council before removing.

25. Twenty-four hours' notice in writing shall be given to the Council at their gas office 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 Notice of the provisions of this section shall be endorsed on every demand note for gas rent.

Power to lay pipes against buildings.

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

Limiting the price of gas.

27. 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 five shillings per one thousand cubic feet The Council shall not at any time charge consumers of gas within the portion of the gas limits which is outside the district of the Council a higher price than twenty per centum more than that charged to consumers in the district of the Council under like circumstances. A.D. 1897.

28. The Council may allow discounts or rebates to consumers of gas in consideration of prompt payment or of large consumption upon such scale and subject to such conditions and regulations as may be agreed upon by the Council and such consumers Provided that any such discount or rebate shall in no case exceed fifteen per centum and shall be allowed equally to all consumers in like circumstances. Rebates on gas charges.

29. 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 sixth-tenths of an inch and from sunset to midnight not less than eight-tenths of an inch in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer and any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment from time to time 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. Pressure of gas.

30. The prescribed number of candles shall be fifteen. Quality of gas.

31. Within six months from the transfer a testing place shall be provided at some convenient part of the gasworks of the Council. Testing place.

32. The prescribed burner shall be Sugg's London Argand Burner Number 1 with a six-inch by one-and-three-quarter inch glass chimney but if at any time and so long as the gas flame rises above the top of that glass a six-inch by two-inch chimney shall be used or any other burner or chimney approved for this purpose by the Board of Trade. Burner.

33. If any person is required by the Council to give to them security for the payment of the price or rent of a gas meter the Council shall pay interest after the rate of three pounds per centum per 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. Council to pay interest on money deposited as security for gas meter.

34. If at any time after the passing of this Act any urban or rural district council whose district or any part thereof is within Provision for sale of portion of undertaking to

A.D. 1897.
other sani-
tary autho-
rities.

the gas limits give not less than six months' notice in writing to the Council of their desire to purchase such portions of the works of the Council as are contained within the district of any such urban or rural district council 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 portions of the said works (except any mains and pipes or other apparatus which shall be necessary for supplying with gas any other part of the gas limits) and to supply gas within such district then and in that case the Council will not 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 urban or rural district council shall purchase the portion of the said works (except as aforesaid) within the district of such urban or rural district council at such price and upon such terms and conditions as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Acts in manner provided by those Acts and the Council shall apply the proceeds of any sale under this section in discharge of money borrowed under this Act for gasworks purposes Any such purchase shall be deemed to be a purchase under the provisions of the Public Health Act 1875 except so far as the same may be otherwise provided for by Parliament Provided that after the completion of such purchase all obligations on the part of the Council to supply gas within such district shall cease and determine.

FINANCIAL.

Power to
borrow.

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

- (a) For the purchase of the undertaking of the Company and for paying any sums payable by the Council to the Company under this Act and defraying the taxed costs and expenses incident to such purchase and to the transfer of such undertaking to the Council (other than the costs of this Act) such sum as may be required;
- (b) For the payment of the said mortgage debt taken over under this Act the sum of one thousand five hundred pounds;
- (c) For the improvement of the gasworks of the Council the sum of ten thousand pounds;
- (d) For paying the taxed costs and expenses of this Act as herein-after provided the sum requisite for that purpose;

And with the approval of the Local Government Board such further moneys as the Council may require for any of the purposes of this Act.

(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 the gas undertaking of the Council and the district fund and general district rate of the district. A.D. 1897.

36.—(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 under this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

37. The Council may raise all or any moneys which they are authorised to borrow under this Act either by the issue of stock under the provisions of the Local Loans Act 1875 or by mortgage or by 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. Mode of raising money.

38. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section 234 of the Public Health Act 1875 and in calculating the amount which the Council may borrow under that Act any sums which they may borrow under this Act shall not be reckoned. Certain regulations of Public Health Act as to borrowing not to apply.

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

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 periods") following (that is to say):— Periods for payment off of money borrowed.

As to moneys borrowed for the purposes (a) (b) and (c) mentioned in the section of this Act the marginal note whereof is "Power to borrow" within a period of forty years from the date or dates of the borrowing of the same;

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

A.D. 1897. — As to moneys borrowed with the approval of the Local Government Board within such period as they may think fit to 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 or by means of a sinking fund or partly by such instalments and partly by a sinking fund.

Regulations
as to sinking
fund.

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

The Council in every year shall appropriate and set apart out of the rate and revenue on the security of which such moneys shall have been borrowed such equal annual sums as will with the accumulations thereof by way of compound interest at not exceeding three per centum per annum with yearly rests be sufficient to pay off the whole of the principal moneys for the repayment of which the sinking fund is provided within the prescribed periods :

The rate of accumulation on which the amounts paid to the sinking fund are based is herein-after referred to as “the prescribed rate” :

Provided as follows (that is to say) :—

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

(B) The Council may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys for the repayment of which it was set apart in such order and manner as they deem proper Provided that in such

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

A.D. 1897.

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

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

44. If the Council pay off any part of any money borrowed by them under the powers of this Act otherwise than by means of

Power to
re-borrow.

A.D. 1897. instalments or appropriations or annual repayments or a sinking fund or out of the proceeds of the sale exchange or disposition of lands or out of fines or premiums on leases or other moneys received on capital account not being borrowed moneys they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing shall have been made and any amounts from time to time re-borrowed shall be deemed to form the same loan as the moneys in lieu of which such re-borrowing shall have been made and the obligations of the Council with respect to the repayment of such moneys shall not be in any way affected by such re-borrowing.

Council not to regard trusts.

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

Application of borrowed moneys.

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

Expenses of execution of Act.

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

Act to be registered by registrar of companies.

48. The Council shall deliver to the registrar of joint stock companies a printed copy of this Act and he shall retain and register the same and if such copy is not so delivered within three months of the passing of this Act the Council shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the default continues Every penalty under this section shall be recoverable summarily.

Separate account of gas undertaking to be kept.

49. The Council shall keep a separate account of their receipts and expenditure for gasworks purposes on capital and revenue account and the provisions of section 58 of the Local Government

Act 1894 shall apply to the accounts of the Council and the accounts of their committees officers and assistants under this Act. A.D. 1897.

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

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

Secondly. In payment of the interest on the mortgage debt and on moneys borrowed by the Council under this Act for the purposes of their gas undertaking;

Thirdly. In providing the requisite appropriations instalments or sinking funds under this Act in respect of the mortgage debt and of moneys borrowed by the Council for the purposes of their gas undertaking;

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

Fifthly. In improving and extending their gas undertaking:

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

51. Any deficiency in the revenues or receipts of the Council on account of their gas undertaking shall be from time to time made good out of the district fund and the next general district As to defi-
ciency in
receipts.

A.D. 1897. — rate to be made by the Council shall be increased so far as may be necessary to recoup to the district fund the amount so made good out of that fund.

MISCELLANEOUS.

Authentica-
tion of
notices. **52.** Where any summons demand or other document under this Act (except a conveyance contract or security) requires authentication by the Council the signature thereof by their clerk shall be a sufficient authentication.

Costs of Act. **53.** The costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act including the costs charges and expenses preliminary to and of and connected with the obtaining of the resolution of owners and ratepayers aforesaid as taxed by the taxing officer of the House of Lords or the House of Commons shall be paid by the Council primarily out of the general district rate but ultimately out of moneys borrowed under the authority of this Act.

The SCHEDULES referred to in the foregoing Act. A.D. 1897.

THE FIRST SCHEDULE.

GAS LANDS.

A piece or parcel of land containing by admeasurement one acre one rood and thirty-six poles or thereabouts situate in the parishes of Malvern Link and Leigh in the county of Worcester bounded on the north-east and south-east by land belonging or reputed to belong to the Great Western Railway Company on the south-west by the public highway leading from Malvern Link to Leigh Sinton and on the north-west by an occupation road leading from the said public highway to the aforesaid land on the north-east belonging or reputed to belong to the Great Western Railway Company.

THE SECOND SCHEDULE.

THIS AGREEMENT made the twenty-third day of November one thousand eight hundred and ninety-six between the Malvern Link Gas Company Limited (herein-after called "the Company") of the one part and the Malvern Link Urban District Council (herein-after called "the Council") of the other part whereby it is agreed as follows :—

1. The Company shall sell and the Council shall purchase as a going concern the whole of the undertaking of the Company and all and singular their real and personal property goodwill assets and effects of whatever nature or kind with the rights and privileges belonging thereto.

2. The purchase money for the said undertaking shall be ascertained by arbitration each party hereto appointing an arbitrator and this agreement shall be deemed a "submission" to two arbitrators within the meaning of the Arbitration Act 1889.

3. The Company shall carry on their business as heretofore until the date of transfer at their own risk and for their own profit and shall maintain and keep the undertaking in as good state of repair as it now is.

4. The Company shall pay all their debts and liabilities except the mortgage debentures now due from the Company amounting to one thousand five hundred pounds which this present sale is made subject to whether on capital or revenue account up to the date of transfer and shall not enter into any contracts except such as have heretofore been customary to enable them to carry on their business without the sanction of the Council being previously given thereto.

5. The date of transfer shall be the first day of January or the first day of July which shall next succeed the date of the award and on that date the purchase money shall be paid at the office of the Company's solicitor. If from any cause other than the wilful neglect or default of the Company the purchase money shall not be then paid the Council shall pay to the Company interest

A.D. 1897. — thereon at the rate of five pounds per cent. per annum from that date until the day of actual completion Should the Council at the date of payment of the purchase money have power to issue stock each shareholder in the Company shall have the option of taking such stock at par in payment or part payment of his or her share of purchase money.

6. The Council shall use their best endeavours to promote and procure in the next session of Parliament an Act with such clauses as may be necessary to carry this agreement into effect and the Company shall as far as they can and at the expense of the Council aid and assist the Council in obtaining the said Act.

7. The Council shall pay all the costs charges and expenses of the Company preliminary and incidental to the negotiation for the sale and the preparation and execution of this agreement and the said arbitration the same to be taxed in case the parties differ.

8. This agreement is subject to such alterations therein as may be made by Parliament and in the event of the Council not being authorised by Parliament to perform and carry out this agreement then the same shall be void and of no effect and if the Council fail to procure the passing of the said Act the Council will support any reasonable application which may be made to Parliament by the Company for Parliamentary powers Provided always that any Bill or Provisional Order promoted by the Company shall contain a clause authorising the Council to purchase the undertaking of the Company as a going concern on arbitration terms within two years of the Bill or Provisional Order becoming law.

9. This agreement is entered into subject to ratification by the shareholders of the Company.

In witness whereof the common seals of the Company and the Council respectively have been affixed hereto.

The seal of the Company affixed in the presence of

W. CLEMENS ABELL
FRED G. NORTH
ALFRED USHER
D. K. SHOEBOOTHAM
W. TAYLOR
JOHN ALFRED STEWARD

} Directors.

JOHN HENRY LYON (*Secretary*)

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