



CHAPTER clxxx.

An Act to authorise the Urban District Council of Cirencester to purchase the Undertaking of the Cirencester Waterworks Company Limited and to supply Water throughout the District and the adjoining Parish of Stratton. A.D. 1897.
[6th August 1897.]

WHEREAS the Urban District Council of Cirencester (hereinafter referred to as "the Council") are desirous of supplying water for domestic and other purposes within the district and the adjoining parish of Stratton :

And whereas the Cirencester Waterworks Company (Limited) (hereinafter referred to as "the company") was formed in the year one thousand eight hundred and eighty-two for the purpose of supplying and do now supply water within limits which comprise the district and the adjoining parish of Stratton under and by virtue of the Cirencester Water Order 1891 and such company was subsequently registered under the Companies Act 1862 :

And whereas the share capital of the company consists of sixteen thousand pounds divided into three thousand two hundred shares of five pounds each of which one thousand six hundred and fifty-five shares have been issued and are paid up :

And whereas the company have a debenture debt of one thousand five hundred pounds :

And whereas it is expedient that provision be made for transferring to the Council the undertaking of the company and that the Council should have such powers as in this Act mentioned :

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

And whereas the directors have received no fees since the formation of the company :

A.D. 1897. And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas an absolute majority of the whole number of the Council at a meeting held on the thirty-first day of March one thousand eight hundred and ninety-seven after ten days notice by public advertisement of such meeting and of the purposes thereof in the Wilts and Gloucestershire Standard a 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 defrayed in the first place out of the general district rate and ultimately out of money to be borrowed under the provisions of this Act:

And whereas such resolution was published twice in the said Wilts and Gloucestershire Standard and has in respect of matters within the jurisdiction of the Local Government Board received the approval of such 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 twenty-ninth day of April one thousand eight hundred and ninety-seven being not less than fourteen days after the deposit of the said Bill in Parliament:

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title. 1. This Act may be cited for all purposes as the Cirencester Water Act 1897.

Incorporation of Acts. 2. The following enactments namely:—
The Waterworks Clauses Act 1847 as amended by section 57 of the Public Health Act 1875 (except section 83 and the provisions thereof with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit); and

The Waterworks Clauses Act 1863;
so far as the same are applicable for the purposes of and are not varied by or inconsistent with this Act are incorporated with and form part of this Act.

3. In this Act the following words and expressions have the meanings hereby assigned to them unless the context otherwise requires (that is to say):—

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Interpreta-
tion.

“The district” means the urban district of Cirencester in the county of Gloucester;

“The Council” means the council of the district;

“The company” means the Cirencester Waterworks Company (Limited);

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

“The Cirencester Water Order 1891” means the Order made by the Board of Trade in that year under that title and confirmed by the Gas and Water Orders Confirmation Act 1891;

“Water limits” means the limits defined by this Act for the supply of water;

“Undertaking” means and includes the waterworks and all plant apparatus and works connected therewith and all property real and personal of the company (except all moneys stocks funds shares and securities whether representing the reserve fund or capital or income or otherwise and all rents water rates and debts due prior to or on the appointed day) and all easements rights powers authorities and privileges enjoyed or exerciseable by the company as such works plant apparatus property easements rights powers authorities and privileges shall exist on the appointed day and also all contracts and benefits of contracts (such contracts being in subsistence on the appointed day) and all registers books accounts maps and documents relating to the company’s undertaking;

“The appointed day” means the thirty-first day of December 1897;

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

TRANSFER OF UNDERTAKING.

4. The agreement dated the tenth day of March one thousand eight hundred and ninety-seven 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 subject to the provisions of

Agreement
between
company and
Council con-
firmed.

A.D. 1897. — this Act ratified and confirmed and made binding on both parties thereto and may and shall be carried into effect according to the true intent and meaning thereof.

Transfer of undertaking by deed.

5. The sale of the undertaking of the company shall be carried into effect and evidenced by a deed which may be in the form set forth in the First Schedule to this Act or to the like effect with such variations and additions as circumstances require.

Pending actions by or against company.

6. If at the appointed day 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 be 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.

Contracts of company to be binding on Council.

7. All conveyances leases (if any) deeds contracts bonds agreements and other instruments affecting the company and in force at the appointed day (other than the debentures of the company) 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.

Vesting of books in Council.

8. Subject as herein-after provided all books plans and documents in the possession of the company which are necessary for the conduct of the business of the company (but not including the minute books of proceedings of shareholders directors or committees or any books plans or documents which are not reasonably necessary for the purposes of the Council as owners of the company's undertaking) shall on and after the appointed day be transferred to the Council:

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

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

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9. The receipt in writing of any three of the directors of the company or (in the event of their refusing to sign the same) of the bankers of the company for the price or consideration or purchase money and all other sums and moneys to be paid to the company by the Council shall be conclusive evidence of the payment of the sum or sums in such receipt acknowledged to be received and shall effectually discharge the Council from all liability in respect of the payment of the sum or sums in such receipt acknowledged to have been received and from being answerable or accountable for any loss misapplication or non-application thereof respectively. Provided that if there shall be any default by the directors in signing such receipt or if from any other cause the Council are unable to obtain such receipt they may pay such moneys into the Bank of England in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt given to the Council by the cashier of the said bank for such moneys shall have the same effect as the receipt of the said three directors.

Receipt.

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

Transitory provisions.

11. The purchase money to be paid by the Council and all other moneys belonging to the company shall be applied by the directors in the manner following:—

Application of purchase money.

- (1) In paying off in accordance with their several priorities all moneys owing by the company on mortgage bond or other charge on the undertaking of the company with interest thereon up to the date of payment;
- (2) In discharging all outstanding debts and liabilities of the company which shall not have been so secured including the costs of the company of and incident to the sale of the undertaking and to the winding up and dissolution of the company;

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(3) In paying the directors officers and servants of the company such remuneration as the shareholders may in general meeting by resolution prescribe;

(4) In making a rateable division of the residue amongst the holders of the shares of the company in proportion to the amount paid up on their several holdings:

And the directors may exercise all powers and do all acts necessary or proper for the foregoing purposes respectively and for winding up the affairs of the company.

Defining
shareholders.

12. The persons who on the appointed day appear on the books of the company to be the proprietors of shares in the capital of the company or their respective executors administrators or assigns shall be considered to be the shareholders thereof for the purposes of the distribution of the company's assets.

Payment
into court
when person
entitled to
money can-
not be
found.

13. Where the directors of the company are for twelve months after the appointed day unable after diligent inquiry to ascertain the person to whom any part of the purchase money or other moneys to be distributed by them is payable or where any part thereof is payable to a person who or whose committee cannot give an effectual receipt for the same the directors may pay the same into the High Court under any Act for the time being in force for the relief of trustees.

Limits of
water
supply.

14. From and after the appointed day the limits of this Act for the supply of water shall be the district and the parish of Stratton in the county of Gloucester.

Incorpo-
rating cer-
tain sections
of Order of
1891.

15. The following sections of the Cirencester Water Order 1891 (that is to say):—

Section 20 (Power to maintain existing works and to supply water);

Section 21 (For protection of Midland and South Western Junction Railway Companies the Great Western Railway Company and the Thames and Severn Canal Company);

Section 22 (For protection of county bridges);

Section 23 (As to pipes crossing the works of a railway or other company);

Section 24 (Limit of pressure);

Section 25 (Rates for supply of water for domestic purposes);

Section 26 (Rates for waterclosets &c.);

Section 28 (Supply of water by agreement);

Section 29 (Supply of water by measure);

Section 30 (Undertakers to keep meter &c. in repair);

Section 31 (Register of meters &c. to be evidence);

Section 33 (When several houses supplied with one pipe each to pay);

Section 34 (Supply of water to tenements in a row); and

Section 36 (Misuser where supply to several houses is by a pipe common to all);

shall extend and apply mutatis mutandis to and in relation to the maintenance and supply of water to be given under the powers of this Act but subject to the provisions of this clause the Cirencester Water Order 1891 shall be repealed.

16. For the purposes of this Act the Council from time to time may purchase by agreement any quantity of land not exceeding ten acres or any easement or right in or over such lands adjoining or near to any of those lands and which they deem it expedient for any of those purposes to acquire and use but the Council shall not create or permit a nuisance on any land so purchased.

Purchase of
lands by
agreement.

17. 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 (except any easement right or privilege of water in which other persons 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.

Power to
persons
under dis-
ability to
grant ease-
ments &c.

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

Restriction
on taking
houses of
labouring
class.

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

19. The Council may agree with any person desirous of having a supply of water that the rent or remuneration for such supply shall be determined by the quantity of water consumed to be

Rent for
water may
be ascer-
tained by
meter.

A.D. 1897. — ascertained by a meter to be provided or approved by the Council and may agree on the amount of the rent or remuneration to be paid for such supply.

Power to
sell or let
meters &c.

20. The Council may purchase sell let for hire use and otherwise to any person supplied by them with water meters pipes fittings and apparatus.

Any such letting for hire may be for such remuneration in money and on such terms with respect to the repair of articles and fittings let and for securing the safety and return to the Council of such articles and fittings and otherwise as may be agreed between the hirer and the Council.

Power to
remove
meters and
fittings.

21. The Council after twenty-four hours notice in writing under the hand of the clerk or some other officer of the Council to the occupier or if there is no occupier then to the owner or lessee or the agent of the owner or lessee of any building or lands in which any water pipe meter or fitting belonging to the Council is laid or fixed and through or in which the supply of water is from any cause other than the default of the Council discontinued for not less than twenty-four consecutive hours may enter such building or lands between the hours of nine in the morning and six in the afternoon or at any other time with the authority in writing of a justice for the purpose of removing and may remove every such pipe meter and fitting repairing all damages caused by such entry or removal.

As to water
meters.

22. In cases in which the Council supply water by meter the following provisions shall have effect:—

- (1) Before any person connects or disconnects any meter through which any of the water of the Council is intended to be or has been registered he shall give not less than twenty-four hours notice in writing to the Council of his intention to do so and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings:
- (2) Every consumer of water of the Council shall at all times at his own expense keep all meters belonging to him whereby any water of the Council is registered in proper order for correctly registering such water in default whereof the Council may cease to supply water through such meters and the Council shall at all reasonable times have access to and be at liberty to take off remove test inspect and replace any meter belonging to a consumer such taking off removal testing and inspecting and replacing to be done at the expense of the Council if the meter be found in proper order but otherwise at the expense of the consumer:

(3) The register of any meter shall be *prima facie* evidence of the quantity of water consumed by any customer of the Council in respect of which any water rate or rent is charged and sought to be recovered by the Council: A.D. 1897.

(4) If any person wilfully fraudulently or by culpable negligence injures or suffers to be injured any meter or fitting belonging to the Council or fraudulently alters the index to any meter or fraudulently prevents any such index from duly registering the quantity of water supplied he shall (without prejudice to any other right or remedy for the protection of the Council or the punishment of the offender) for every such offence be liable to a penalty not exceeding five pounds and the Council may in addition thereto recover the amount of any damages sustained by them:

(5) The existence of artificial means for causing such alteration or prevention when such pipe meter or fitting is under the custody or control of the consumer shall be *prima facie* evidence that the same has been fraudulently caused by the consumer using such pipe meter or fitting.

23. For preventing waste misuse undue consumption or contamination of the water of the Council the following provisions shall have effect namely:—

Byelaws preventing waste &c. of water.

(1) The Council may make such byelaws as they think expedient for the objects aforesaid to be observed by persons supplied with water:

(2) The Council may by any such byelaws direct the use and prescribe the size nature strength materials workmanship and the mode of arrangement connexion disconnexion alteration and repair of pipes valves meters cocks tanks cisterns baths soil-pans waterclosets and other apparatus or receptacles for conveying delivering receiving and measuring water and may interdict any arrangement and the use of any pipe valve cock tank cistern bath soil-pan watercloset or other apparatus or receptacle likely to occasion waste misuse undue consumption erroneous measurement or contamination of water:

(3) In case of the failure of any person to observe any byelaws for the time being in force the Council may if they think fit between the hours of nine in the forenoon and four in the afternoon after twenty-four hours notice in writing enter his premises and by or under the direction of their authorised officer repair replace or alter any pipe valve cock tank cistern bath soil-pan watercloset or other apparatus or receptacle belonging to or used by any person supplied by them and the expense of every such replacement or alteration shall be repaid

A.D. 1897.

to the Council by the person on whose credit the water is supplied and may be recovered from him in a summary manner:

- (4) All byelaws made by the Council under this section shall be made under and according to the provisions with respect to byelaws contained in sections 182 to 186 of the Public Health Act 1875 except so much thereof as relates to byelaws made by a rural sanitary authority and shall be in force only within those parts of the water limits in which the Council are bound to afford and do in fact afford or are prepared on demand to afford a constant supply.

Council's officer may enter buildings to inspect fittings.

24. Any person duly appointed for the purpose by the Council and exhibiting his appointment if required to do so may between the hours of nine in the forenoon and four in the afternoon enter any building or place supplied with water by the Council and inspect the meters pipes valves ferrules cocks cisterns soil-pans baths waterclosets taps fittings and other apparatus and receptacles for conveying delivering and receiving water and the mode of arrangement thereof and see whether they are in good repair and if such person at any such time be refused admittance into such premises for the purposes aforesaid or be prevented from making such examination the occupier of such premises shall for every such offence be liable to a penalty not exceeding forty shillings.

Notice of discontinuance.

25. A notice to the Council from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing and be left at or sent by post to the clerk's office for the time being in the district.

Provision for sale of portion of waterworks and plant to other sanitary authorities.

26. If at any time after the appointed day any local authority whose district is beyond the district of the Council but as to the whole or any part thereof within their limits for the supply of water shall give not less than six months notice in writing to the Council of their desire to purchase such portion of the waterworks and plant of the Council as is contained within the district of any such local authority and shall obtain the consent of the Local Government Board to such purchase and shall apply to Parliament or the Local Government Board for power to purchase such portion of the waterworks and plant of the Council (except the works mains and pipes or other apparatus which shall be necessary for supplying with water any other part of the limits of the Council for the supply of water) and to supply water within such district then it shall not be lawful for the Council to oppose such application (except as to the details thereof) and if such powers of purchase and supply be granted the Council shall sell and such local authority shall purchase the

portion of the waterworks and plant of the Council (except as aforesaid) within the district of such local authority at such price (being a sum in gross) and upon such terms and conditions as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Acts Any such purchase shall be deemed to be a purchase under the provisions of the Public Health Act 1875 except so far as the same may be otherwise provided for by Parliament The Council shall apply the proceeds of any sale under this section towards repayment of any moneys borrowed by the Council under this Act Provided that after the completion of such purchase all obligations on the part of the Council to supply water within the district of the purchasing authority shall cease and determine.

A.D. 1897.

FINANCIAL.

27.—(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):—

Power to borrow.

(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 improvement of the waterworks of the Council the sum of two thousand pounds;

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

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

28. The following provisions of the Public Health Act 1875 (that is to say):—

Section 236 (Form of mortgage);

Section 237 (Register of mortgages); and

Section 238 (Transfer of mortgages);

shall extend and apply mutatis mutandis to and in relation to mortgages made under the powers of this Act.

Incorporation of certain provisions of Public Health Act 1875.

29. The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in the Public

Certain regulations of Public

Health Act
1875 as to
borrowing
not to apply.

Discharge of
borrowed
moneys.

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.

30. The Council immediately after they commence to borrow money under this Act shall out of the revenue of the water undertaking and the general district rate discharge or make provision by means of equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund or partly in one way and partly in the other for the discharge or redemption of the moneys borrowed by the Council for the purposes of this Act within the following periods namely :—

As regards money borrowed for the purpose of paying the taxed costs charges and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act the period of ten years from the time herein-before prescribed for commencing to discharge such moneys; and

As regards other moneys borrowed for the purposes of this Act the period of fifty years from the time herein-before prescribed for commencing to discharge such moneys :

And such respective periods are herein-after referred to as “the prescribed period.”

Regulations
as to sinking
fund.

31. The following regulations shall be observed by the Council in relation to any sinking fund formed under this Act :—

(1) Such equal yearly sums shall be paid by the Council out of the revenue of the water undertaking and the general district rate or either of them into the sinking fund as being accumulated at compound interest at a rate not exceeding three pounds per centum per annum will be sufficient to pay off and redeem the moneys for the discharge and redemption of which the sinking fund is created within such period not exceeding the prescribed period as the Council may in each case determine with power for the Council from time to time to increase such payments into the sinking fund so as to accelerate the payment off and redemption and discharge of such moneys Provided that if in any year the income arising from the investments of such sinking fund does not equal the prescribed rate of accumulation any deficiency shall be made good out of the revenue of the water undertaking or the general district rate :

(2) All sums paid into the sinking fund shall be as soon as may be invested by the Council in securities in which trustees are for the time being authorised to invest or in the mortgages debenture stock or other securities authorised by Act of

Parliament of any local authority as defined by the Local Loans Act 1875 other than the Council or securities transferable by delivery any such investments may be from time to time varied or transposed and all dividends and other sums received in respect of such investments shall as soon as may be after they are received or become payable be paid into the sinking fund and invested by the Council in like manner: A.D. 1897.

(3) The Council may at any time apply the whole or any part of the sinking fund in or towards the repayment of moneys for the repayment of which the sinking fund was formed in such order and manner as they deem proper. Provided that whenever any of such moneys have been so paid off or redeemed the Council shall thenceforward until the whole of such principal moneys have been paid off or redeemed pay out of the revenue of the water undertaking and the general district rate or either of them into the sinking fund every year in addition to the other sums herein-before required to be paid into the sinking fund a sum equivalent to the interest which would have been produced by the sinking fund or part of the sinking fund so applied at the rate per centum on which the annual payments to the sinking fund are based:

(4) Whenever and so long as the securities in the sinking fund taken at the market value of the day are equal to the amount of debt outstanding for the repayment of which the sinking fund was formed the Council may in lieu of investing the yearly income thereof apply the same in payment of the interest on the debt and may during such periods discontinue the payment to the sinking fund of the yearly sums required to be paid thereto.

32.—(1) The mortgagees of the Council under this Act may enforce payment of the arrears of interest or of principal or of principal and interest due to them by the appointment of a receiver. The amount of principal in arrear to authorise the appointment of a receiver shall not be less than one thousand pounds in the whole. Appointment of a receiver.

(2) The application for the appointment of a receiver shall be made to the High Court.

33. The clerk to the Council shall within twenty-one days after the thirty-first day of March of each year during which any sum is required to be set apart for a sinking fund or to be paid as an instalment in respect of moneys borrowed 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 if so required by them showing the amount which has been paid as an Annual return to Local Government Board.

A.D. 1897. instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund or any interest thereof has been applied during the same period and the total amount remaining invested at the end of the year. In the event of any wilful default in making such return the clerk shall be liable to a penalty of not exceeding twenty pounds which shall be recoverable in a summary manner on the prosecution of the Local Government Board and not otherwise.

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 aside any sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised 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. The provisions of this section shall mutatis mutandis apply to appropriations and annual payments.

Power to
re-borrow.

34. If the Council pay off any moneys borrowed by them under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of lands or other property or of fines or premiums on leases or other moneys received on capital account other than borrowed moneys they may re-borrow the same and so from time to time. Provided that all moneys so re-borrowed shall be repaid within the period prescribed for the repayment of the moneys originally borrowed and any amounts from time to time re-borrowed under the foregoing provisions for the repayment of such moneys shall for the purpose of repayment be deemed to form part of the original loan and the obligations of the Council with respect to the repayment of such moneys shall not be in any way affected by reason of such re-borrowing.

Protection of
lender from
inquiry.

35. A person lending money to the Council shall not be bound to inquire as to the observance by the Council of any provisions of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent by him or of any part thereof.

Power to
borrow
under Local
Loans Act
1875.

36. The Council may if they think fit borrow the moneys which they are by this Act authorised to borrow or any part thereof under the powers and subject to the provisions of the Local Loans Act

1875 by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another. A.D. 1897.

Any moneys borrowed in manner by this section authorised for any of the purposes of this Act shall be a charge upon the same security fund and rates as they would be charged upon if raised by mortgage under this Act and such security fund or rates shall be the local rate or rates within the meaning and for the purposes of the Local Loans Act 1875.

Every such loan shall be discharged within the respective periods prescribed by this Act and all moneys paid into the sinking fund shall be invested or applied by the Council in the manner herein provided.

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

38. 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 of mortgages 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. Council not to regard trusts.

39. The Council shall (after the appointed day) keep the accounts in respect of their water undertaking if and when acquired separate from all their other accounts distinguishing therein capital from revenue and such accounts shall be subject to the same provisions as to audit as other accounts of the Council. Separate accounts to be kept as to water.

40. The Council shall (after the appointed day) apply all money from time to time received by them on account of revenue arising from their water undertaking in— Application of revenue of water undertaking.

- (1) Payment of the expenses of and incidental to the collection and recovery of rates and of the working and establishment expenses and cost of maintenance of such undertaking;
- (2) In payment of the interest on any moneys borrowed by the Council under this Act;

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- (3) In providing the requisite instalments or sinking fund or otherwise making provision for repayment or payment off of any moneys borrowed by the Council under the powers of this Act;
- (4) In repayment or recoupment to the district fund or general district rate of any money expended out of that fund for the purposes of such undertaking;
- (5) In providing a reserve fund if the Council think fit by setting aside such sums as they from time to time think reasonable and investing the same and the resulting income thereof in securities in which sinking funds under this Act may be invested and accumulating the same at compound interest till the fund so formed amounts to two thousand pounds which fund shall be applicable from time to time to answer any deficiency at any time happening in the revenue of the Council from such undertaking or to meet any extraordinary claim or demand at any time arising against the Council in respect of the said undertaking and so that if the said fund is at any time reduced it may be again restored to the amount aforesaid and so from time to time as often as such reduction happens Provided that if and so long as such reserve fund shall amount to the full maximum sum the interest thereof shall be applied by the Council in the manner in which the revenue of the said undertaking is by this Act authorised to be applied;
- (6) In improving and extending the water undertaking of the Council;
- (7) And so much of any balance remaining in any year as may in the opinion of the Council not be required for carrying on improving and extending the undertaking and paying the current expenses connected therewith interest on moneys borrowed and instalments contributions to the sinking fund appropriations and annual repayments may be applied by the Council in the repayment of any moneys borrowed by the Council for the purchase of the said undertaking or may as to the whole or any part thereof in the discretion of the Council be carried to the credit of the district fund or general district rate.

As to deficiency in receipts.

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

[60 & 61 Vict.] *Cirencester Water Act, 1897.* [Ch. clxxx.]

42. The costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act shall after taxation by the taxing officer of the House of Lords or the House of Commons be paid by the Council out of any of the rates leviable by them or out of moneys to be borrowed by the Council under this Act.

A.D. 1897.
—
Expenses of
Act.

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

THE FIRST SCHEDULE.

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

In pursuance of and subject to the provisions of the Cirencester Water Act 1897 and in consideration of

the Cirencester Waterworks Company (Limited) do hereby grant convey and assign unto the Urban District Council of Cirencester the undertaking of the Cirencester Waterworks Company (Limited) To hold the same unto the Urban District Council of Cirencester their successors and assigns subject to the rents and covenants now affecting the same and the Urban District Council of Cirencester do accept the same accordingly.

In witness whereof the Cirencester Waterworks Company (Limited) and the Urban District Council of Cirencester have hereto set their respective common seals this day of one thousand eight hundred and

THE SECOND SCHEDULE.

AN AGREEMENT made the tenth day of March one thousand eight hundred and ninety-seven between THE CIRENCESTER WATERWORKS COMPANY LIMITED having its registered office at Cirencester in the county of Gloucester (herein-after called "the Company") of the one part and THE CIRENCESTER URBAN DISTRICT COUNCIL (herein-after called "the Council") of the other part.

WHEREAS the Company was incorporated in the year one thousand eight hundred and eighty-two under the Companies Acts 1862 to 1880 as a Company limited by shares for the purpose of supplying the town and district of Cirencester with water and for the objects specified in its memorandum of association And whereas by the Cirencester Water Order 1891 (being a Provisional Order made under the Gas and Water Works Facilities Act 1870 which was duly confirmed by Act of Parliament of the twenty-first day of July one thousand eight hundred and ninety-one) the Company was empowered to maintain and continue waterworks and to supply water in the parishes of Cirencester Stratton and Coates all in the county of Gloucester

And whereas the Company in pursuance of the said powers has established and maintained the said waterworks and continues to maintain the same and to supply the parishes of Cirencester and Stratton with water and is now entitled to divers works and property constructed and acquired by the Company for the purpose of its undertaking And whereas the Council is desirous of purchasing and the Company is willing to sell the said undertaking works and property on the terms herein-after contained and it is intended that the Council shall at its own expense with all convenient speed apply for and obtain an Act of Parliament duly authorising the said sale and purchase and giving to the Council further facilities of borrowing the purchase moneys than those given by the Public Health Act 1875 Now it is hereby agreed and declared as follows:—

1. The Company shall sell and the Council shall purchase—

Agreement for sale.

First All the undertaking of the Company including all the rights easements powers and privileges whatsoever whether statutory or otherwise to which the Company is now or may on the day herein-after fixed for completion be entitled in relation thereto:

Particulars of property sold. Undertaking.

Secondly All the freehold and leasehold messuages lands tenements and hereditaments specified in the First and Second Schedules hereto And all other (if any) the messuages lands tenements and hereditaments of whatsoever tenure or description to which the Company is now or may on the day herein-after fixed for completion be entitled in relation to the said undertaking:

Hereditaments.

Thirdly All the works reservoirs wells mains service and other pipes sluices valves hydrants meters pumps engines boilers condensers machinery tanks implements utensils tools appliances apparatus and plant of every description which have or by the day herein-after fixed for completion shall have been made constructed laid down fixed or acquired by the Company for the purpose of the said undertaking or otherwise howsoever as the same shall on the day herein-after fixed for completion then belong to or be used or held by the Company:

Works plant &c.

Fourthly The full benefit of all contracts and engagements to which the Company shall on the day herein-after fixed for completion be entitled in relation to the said undertaking:

Contracts.

And fifthly All other whatsoever the property and effects rights and privileges of the Company excepting only as next herein-after mentioned.

All other property.

2. Provided always and it is hereby expressly agreed that (a) the share capital of the Company whether called or uncalled (b) all moneys stocks funds shares and securities (whether representing reserve fund or capital or income or otherwise) to which the Company is now or may hereafter prior to or on the day herein-after fixed for completion become entitled and (c) all rents water rates and debts now owing or which may hereafter prior to or on the day herein-after fixed for completion become owing to the Company shall respectively be excepted out of the sale hereby made and shall remain and be the absolute property of the Company.

Property of company excepted from the sale.

3. The purchase moneys for all the premises hereby agreed to be sold shall be the sum of fourteen thousand pounds the further sum of two hundred and fifty-eight pounds ten shillings being the agreed cost of a new boiler and condenser and of fixing the same which the Company has agreed to purchase

Purchase moneys.

- A.D. 1897. and fix forthwith and such further sum (not exceeding one hundred pounds) as shall be the fair value of the stock of spare pipes and the coal in the Company's possession on the day fixed for completion such fair value in default of agreement to be fixed by two arbitrators or their umpire in the usual way pursuant to the Arbitration Act 1889.
- Title to hereditaments. 4. The title as to the said freehold hereditaments shall commence with an indenture dated the fifth day of July one thousand eight hundred and eighty-eight being the conveyance to the Company and as to the said leasehold hereditaments with the indenture of lease dated the eleventh day of November one thousand eight hundred and ninety-three from Lord Bathurst for ninety-nine years from the twenty-ninth September one thousand eight hundred and eighty-two under which the same are held by the Company.
- Subject to easements &c. 5. The said leasehold hereditaments are sold subject to the rents and the covenants on the part of the lessees and conditions contained in the said lease and all the said hereditaments are sold subject to all rights of way water and other easements affecting the same.
- Errors in description. 6. The said hereditaments are believed and shall be taken to be correctly described and any error mis-statement or omission shall not annul the sale or be a ground for any abatement or compensation on either side.
- Requisitions. 7. The Council shall make its objections and requisitions (if any) in respect of the Company's title to any of the said hereditaments and all matters appearing in any abstract or muniment of title or this agreement and send the same to Messrs. Mullings Ellett and Co. of Cirencester the Company's solicitors within twenty-one days from the delivery of the abstract and subject only to such requisitions and objections (if any) so sent in shall be considered as having accepted the title If the Council shall insist on any requisition or objection as to title conveyance or otherwise which the Company shall be unable or on the ground of expense or delay or otherwise shall be unwilling to comply with the Company may notwithstanding any previous or pending negotiation or litigation by notice in writing determine this agreement without giving rise to any claim for compensation costs expense or otherwise.
- Completion. 8. The purchase shall be completed on the thirty-first day of December one thousand eight hundred and ninety-seven at the said office of the solicitors of the Company when the said purchase moneys shall be paid by the Council to the Company or as it shall direct Provided that if the said intended Act of Parliament shall not be obtained during the present session of Parliament then the purchase shall be completed on the thirtieth day of June one thousand eight hundred and ninety-eight instead of the thirty-first day of December one thousand eight hundred and ninety-seven and wherever in this agreement reference is made to the day fixed for completion such reference shall be deemed to be to the thirty-first day of December one thousand eight hundred and ninety-seven or the thirtieth day of June one thousand eight hundred and ninety-eight as the case may be.
- Company to remain in possession until completion. 9. Up to midnight on the day fixed for completion the Company shall continue in possession of the said premises hereby agreed to be sold and in receipt of the rents and profits thereof and shall pay and defray all outgoings in respect thereof and maintain uphold and keep the same in their present state and condition so far as may be (fair wear and tear and damage by fire

storm tempest or accident not resulting from the negligence of the Company or its servants excepted) and shall carry on the said undertaking in the usual and ordinary manner so as to maintain the same as a going concern and shall not incur any extraordinary expenditure nor make any alteration or variation in the ordinary working of the said undertaking without the sanction in writing of the Council. A.D. 1897.

10. And as and after midnight on the day fixed for completion the Council having paid the said purchase moneys with any interest thereon which may have become payable under the provision in that behalf herein-after contained shall be let into possession of the said premises hereby agreed to be sold and into the receipt of the rents and profits thereof and shall thenceforth bear and defray all outgoings and assume retain perform and observe all the rights privileges duties and powers obligations and liabilities of the Company in respect thereof And all proper apportionments shall be made between the Company and the Council for the purpose of this and the last two preceding clauses. Possession of Council on completion.

11. Upon completion of the purchase the Company shall cease to supply water for any purpose within the parishes of Cirencester Stratton and Coates. Company to cease supply.

12. If from any cause whatever other than the wilful default of the Company the purchase shall not be completed on the day fixed for completion the Council shall pay interest on the said purchase moneys at the rate of five pounds per cent. per annum until the actual completion and as from and after midnight of the day fixed for completion until actual completion the Company shall carry on the said undertaking on behalf of the Council and shall be paid by the Council all expenses and indemnified by them against all liabilities incurred by the Company in carrying on the said business during such period and shall account to the Council for the net rents and profits received by the Company for such period. If completion delayed interest to be paid and company to carry on undertaking on behalf of Council until actual completion.

13. Upon payment by the Council to the Company of the said purchase moneys and all interest which may have become due for the same the Company and other necessary parties (if any) shall execute a proper assurance or proper assurances of the said premises not capable of manual delivery such assurance or assurances to be prepared by and at the expense of the Council and perused and executed by and at the expense of the Company and every other assurance act matter and thing (if any) which shall be required by the Council for tracing getting in or releasing any outstanding estate right title or interest or for completing or perfecting the Company's title or for any other purpose shall be prepared made and done by and at the expense of the Council. Conveyance.

14. Provided always and it is hereby expressly agreed and declared that this agreement is conditional upon the same being ratified by a special resolution of the Company and if the same is not so ratified within two calendar months from the date hereof either of the parties hereto may by notice in writing to the other rescind this agreement. Conditional on special resolution of company.

15. Provided also and it is hereby further expressly agreed and declared that this agreement is also conditional upon an Act of Parliament being passed prior to the first day of August one thousand eight hundred and ninety-eight or within such extended period as may be agreed to by the Conditional on Act of Parliament being obtained.

A.D. 1897. — Company duly authorising the present sale by the Company and purchase by the Council and also upon the Council obtaining all consents (if any) necessary by statute to this present purchase And if such Act of Parliament shall not be passed and such consents (if any) necessary shall not be obtained before the said first day of August one thousand eight hundred and ninety-eight or such extended period as may be agreed to by the Company this agreement shall be void Provided always and it is hereby agreed that the Council shall at their own expense with all convenient speed apply for and use their best endeavours to obtain the passing of the Act aforesaid during the present session of Parliament or that failing during the session of one thousand eight hundred and ninety-eight and apply for and obtain the said consents (if any) necessary.

No compensation on agreement being rescinded or becoming void.

16. In the event of this agreement being rescinded or becoming void under either of the last two preceding clauses hereof neither of the parties hereto shall have any claim for compensation costs or expenses whatsoever against the other.

Marginal notes

17. The marginal notes to this agreement are inserted merely for convenience of reference and shall not be deemed part of or in any manner affect the interpretation or construction of this agreement.

In witness whereof the said parties to these presents have hereunto set their respective common seals the day and year first above written.

THE FIRST SCHEDULE ABOVE REFERRED TO.

FREEHOLDS.

All those two messuages or tenements with the courtyards and domestic offices thereto belonging one of which messuages or tenements or some part thereof is now used as an engine room and pumping station of the waterworks of the company and the other as the dwelling-house of their engineer situate in and fronting Lewis Lane in the parish of Cirencester Together with the well of water upon the property and all easements and appurtenances thereto belonging which said premises are now in the possession of the company and are with the respective boundaries and dimensions thereof more particularly delineated in the plan drawn on the said indenture of conveyance of the fifth day of July one thousand eight hundred and eighty-eight.

THE SECOND SCHEDULE ABOVE REFERRED TO.

LEASEHOLDS.

All that piece of land and reservoir situate in the parish of Cirencester containing by admeasurement 1 acre 0 roods 20 poles or thereabouts more particularly delineated in the plan drawn upon the said indenture of lease dated the eleventh day of November one thousand eight hundred and ninety-three And also full and free liberty and licence for the lessees their servants agents and workmen at all reasonable times during the daytime and either on foot or with horses carts and carriages from time to time during the continuance of the term thereby granted as and when it may be necessary for the inspection and repair of the said reservoir and the piping connected therewith to enter upon and to pass and repass over and along that part of the private road

leading from Cecily Hill which is coloured blue on the said plan and also over the piece of land coloured green upon the said plan lying between the said road and the piece of land coloured red on the said plan and also over and along the private road leading out of the first-mentioned road to Barton Lane in the said town of Cirencester and coloured brown on the said plan for the purpose of inspecting removing replacing and reinstating the said reservoir the pipes and pumping main and every or any part thereof respectively and for the like purposes to enter upon any part of the said road leading from Cecily Hill and land under which the said pipes and pumping main have been laid and to remove the surface of and excavate the ground as far as may be necessary giving nevertheless to the lessor or his agent and tenants for the time being reasonable notice previous to every or any such entry and as soon as possible replacing re-levelling and reinstating the surface and in all other respects doing the work to the satisfaction of the lessor Provided always that all the materials necessary for the repair of the said reservoir and pipes and pumping main shall be conveyed only over so much of the said private roads as are coloured blue and brown on the said plan and not through or by way of the park gates on Cecily Hill aforesaid or any other part of the lands of the lessor.

A.D. 1897.

The seal of the company was affixed by order of the directors in the presence of—

E. WILLIAM CRIPPS

Chairman.

Seal of
the Cirencester
Waterworks
Company.

The seal of the Council was affixed by order of the Council in the presence of—

HENRY ZACHARY Chairman.

R. ELLETT Clerk.

Seal of
Cirencester
Urban District
Council.

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