



CHAPTER clvi.

An Act to empower the mayor aldermen and burgesses of the borough of Bacup to construct additional waterworks and for other purposes. [25th July 1898.]

A.D. 1898.

WHEREAS the mayor aldermen and burgesses of the borough of Bacup (herein-after called "the Corporation") have in pursuance of the powers conferred upon them by the Bacup Corporation Water Act 1894 purchased the undertaking of the Rossendale Waterworks Company and are by the Rossendale Waterworks Act 1853 and the Act of 1894 as amended by the Bacup Order 1897 (in this Act called "the recited Acts") authorised to supply water within the borough of Bacup and a part of the borough of Rawtenstall:

And whereas the supply of water from the existing works of the Corporation is insufficient to satisfy the present and growing demands of the inhabitants within the limits of supply and it is expedient that the Corporation be empowered to construct the waterworks in this Act described or referred to and that further provision be made as in this Act contained in regard to the water undertaking of the Corporation:

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

And whereas estimates have been prepared by the Corporation for the purchase of the lands for and the execution of the works authorised by this Act and for other the purposes of the water undertaking of the Corporation and the amount of such estimates is one hundred and forty thousand pounds:

And whereas the several works included in such estimates respectively are permanent works within the meaning of section 234 of the Public Health Act 1875:

And whereas an absolute majority of the whole number of the council at a meeting held on the seventeenth day of November

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And whereas such resolution was published twice in the said *Bacup Times* 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 twentieth day of January one thousand eight hundred and ninety-eight being not less than fourteen days after the deposit of the Bill for this Act in Parliament :

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

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county palatine of Lancaster and are in this Act respectively referred to as the deposited plans sections and book of reference :

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
and citation
of Acts.

1. This Act may be cited as the *Bacup Corporation Water Act 1898* and the *Rossendale Waterworks Act 1853* the *Bacup Corporation Water Act 1894* the *Bacup Order 1897* (confirmed by the Local Government Board's Provisional Orders Confirmation (No. 5) Act 1897) and this Act may be jointly cited as the *Bacup Corporation Water Acts 1853 to 1898*.

2. The following Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act namely:—

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—
Incorporation of Acts.

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

The Waterworks Clauses Act 1847 (except 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 except section 83 relating to accounts) but that Act shall be read and have effect as if the words “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner” were omitted from section 44;

The Waterworks Clauses Act 1863; and

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and in such provisions for the purposes of this Act “the railway” means the reservoirs by this Act authorised and “the centre of the railway” means the boundaries of those reservoirs.

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

Interpretation.

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

“The borough” means the borough of Bacup;

“The council” means the council of the borough;

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

“The Act of 1894” means the Bacup Corporation Water Act 1894;

“The corporation of Rawtenstall” means the mayor aldermen and burgesses of the borough of Rawtenstall.

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

Execution of Act.

LANDS.

5. Subject to the provisions of this Act the Corporation may enter upon take and use all or any of the lands delineated on the deposited plans and described in the deposited book of reference.

Power to acquire lands.

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Power to
acquire
easements
only for
aqueducts.

6.—(1) The Corporation may in lieu of acquiring any lands for the purpose of the aqueducts authorised by this Act acquire such easements and rights in such lands as they may require for the purpose of making maintaining cleansing repairing renewing and enlarging the aqueducts and may give notice to treat in respect of such easements and rights and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such easements and rights as fully as if the same were lands within the meaning of those Acts.

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

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

Period for
compulsory
purchase of
lands.

7. The powers of the Corporation for the compulsory purchase of lands under this Act shall not be exercised after the expiration of five years from the passing of this Act.

Persons
under
disability
may grant
easements
&c.

8. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Corporation any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

9. The Corporation in addition to any other lands which they are by this Act authorised to acquire may by agreement purchase take on lease acquire and hold for the purposes of their water undertaking any lands and any easements or rights over or in respect of lands which the Corporation may deem necessary for those purposes Provided that the Corporation shall not under the powers of this section hold at any time more than twenty acres of land and that they shall not create or permit the creation or continuance of any nuisance on any such lands.

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Power to
purchase
additional
lands by
agreement.

10.—(1) The Corporation shall not under the powers by this Act granted purchase or acquire in any parish ten or more houses which on the fifteenth day of December last were or have been since that day or shall hereafter be occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until—

Restrictions
on displacing
persons of
labouring
class.

(A) They shall have obtained the approval of the Local Government Board to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December last or for such number of persons as the Local Government Board shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or of the place of employment of such persons and to all the circumstances of the case; and

(B) They shall have given security to the satisfaction of the Local Government Board for the carrying out of the scheme.

(2) The approval of the Local Government Board to any scheme under this section may be given either absolutely or conditionally and after the Local Government Board have approved of any such scheme they may from time to time approve either absolutely or conditionally of any modifications in the scheme.

(3) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation before the persons residing in the houses in respect of which the scheme is made are displaced:

Provided that the Local Government Board may dispense with the last-mentioned requirement subject to such conditions (if any) as they may see fit.

(4) Any provisions of any scheme under this section or any conditions subject to which the Local Government Board may have approved of any scheme or of any modifications of any scheme or

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(5) If the Corporation acquire or appropriate any house or houses under the powers by this Act granted in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if it think fit reduce such penalty.

(6) For the purpose of carrying out any scheme under this section the Corporation may appropriate any lands for the time being belonging to them or which they have power to acquire Provided that nothing in this section shall relieve the Corporation from the necessity of obtaining the approval of the Local Government Board for such appropriation or use of their corporate land as would require such approval under the Municipal Corporations Act 1882 (as amended by section 72 of the Local Government Act 1888) or any other general Act.

(7) Subject to the provisions of this section the Corporation and the Local Government Board and their inspectors shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them under the Public Health Act 1875 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act Provided that all lands on which any buildings have been erected or provided by the Corporation in pursuance of any scheme under this section shall for a period of twenty-five years from the date of the scheme be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment Provided also that the Local Government Board may at any time dispense with all or any of the requirements of this subsection subject to such conditions (if any) as they may see fit.

(8) The Corporation shall pay to the Local Government Board a sum to be fixed by that Board in respect of the preparation and issue of any provisional order in pursuance of this section and 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. A.D. 1898.

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

(10) The Local Government Board may by order dispense with all or any of the foregoing provisions of this section upon the Corporation undertaking not to pull down ten houses occupied by persons belonging to the labouring class and taken under the powers of this Act except for the purpose of rebuilding the same and that all such houses rebuilt or not pulled down shall for a period of twenty-five years from the date of the undertaking be appropriated for the purpose of dwellings.

11. Subject to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of superfluous lands so far as such provisions are in each case applicable the Corporation may sell lease and dispose of any lands acquired by them under this Act and not for the time being required for the purposes thereof. Power to sell lands.

12. The Corporation on selling leasing or disposing of any lands acquired for or in connexion with their water undertaking and not required for the purposes thereof may reserve to themselves any rights easements or privileges in over or affecting such lands and may make the sale lease or disposition subject to such reservations accordingly and may also make any such sale lease or disposition subject to such other reservations special conditions restrictions and provisions with respect to use or protection of water exercise of noxious or other trades or occupations or discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit. Reservation of water rights &c. on sale.

13.—(1) For the purpose of protecting any of their waters and waterworks against pollution nuisance encroachment or injury the Corporation may by agreement purchase take on lease and acquire any lands in the areas in or over which any streams or waters which the Corporation are authorised to take arise or flow (which areas are in this Act referred to as "the drainage areas") and may hold such lands and any other lands which the Corporation may have acquired within the drainage areas prior to the passing of this Act so long as they shall deem it necessary or expedient for the purposes aforesaid. Power to purchase and hold lands and exercise powers for protection of waters and water-works.

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(2) The Corporation may in and upon the lands which they have acquired or may acquire within the drainage areas construct and lay down drains sewers watercourses and other works and conveniences necessary or proper for the purpose of intercepting or taking all foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Corporation are empowered to take from being polluted fouled contaminated or discoloured and the Corporation may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road within or adjoining the lands in the drainage areas subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

WORKS.

Power to
make water-
works.

14. Subject to the provisions of this Act the Corporation may make and maintain in the lines and situations and upon the lands delineated upon the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections the works herein-after described (that is to say):—

- (1) Cowpe Reservoir.—A storage reservoir to be situate in the boroughs of Bacup and Rawtenstall and to be formed by means of an embankment across the Cowpe Brook :
- (2) Catchwater No. 1.—A catchwater drain or conduit to be situate in the borough of Rawtenstall commencing in the Cowpe Reservoir and terminating in a stream one of the tributaries of the Cowpe Brook :
- (3) Catchwater No. 2.—A catchwater drain or conduit to be situate in the borough commencing in the Cowpe Reservoir and terminating in a stream one of the tributaries of the Cowpe Brook :
- (4) Springholes High Level Reservoir.—A storage reservoir to be situate in the borough near to the Cowpe Brook :
- (5) Catchwater No. 3.—A catchwater drain or conduit to be situate in the boroughs of Bacup and Rawtenstall commencing in the Springholes High Level Reservoir and terminating in a stream one of the tributaries of the Cowpe Brook :
- (6) Aqueduct No. 1.—An aqueduct consisting of one or more conduits or lines of pipes to be situate in the boroughs of Bacup and Rawtenstall commencing in the Cowpe Reservoir and terminating in the Cowpe Road near to the Bridge End works :

(7) Aqueduct No. 2.—An aqueduct consisting of one or more conduits or lines of pipes to be situate in the boroughs of Bacup and Rawtenstall commencing by a junction with Aqueduct No. 1 near to Cowpe School and terminating by a junction with an existing conduit of the Corporation in New Line : A.D. 1898.
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(8) Aqueduct No. 3.—An aqueduct consisting of one or more conduits or lines of pipes to be situate in the borough commencing in Springholes High Level Reservoir and terminating at the junction of Rochdale Road with Slack Lane.

15. In addition to the waterworks in this Act described the Corporation may subject to the provisions of this Act upon any lands shown on the deposited plans and acquired by them or upon any other lands for the time being belonging to them make and maintain all such cuts channels adits catchwaters aqueducts culverts tunnels drains sluices by-washes weirs gauges wells tanks filter-beds embankments bridges roads approaches telegraphic and telephonic apparatus engines pumps machinery appliances apparatus and conveniences connected with or ancillary to the said works or necessary for inspecting maintaining repairing cleansing managing working or using the same or required for the purposes of the water undertaking of the Corporation : Subsidiary
waterworks.

Provided that no telegraphic or telephonic apparatus made and maintained under the authority of this Act shall be used for the purpose of transmitting telegrams in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

16. The Corporation may stop up and discontinue for public use any footpath shown on the deposited plans as intended to be stopped up and upon the stopping up and discontinuance of the same respectively the sites and soil thereof respectively shall be by this Act vested in the Corporation so far as they are the owners of the adjoining lands on both sides freed from all public and other rights over or affecting the same : Stopping up
of footpaths.

Provided that prior to stopping up either of the footpaths numbered respectively 111 on the deposited plans for the borough of Rawtenstall and 17 on the deposited plans for the borough of Bacup the Corporation shall provide a footpath upon the lands delineated upon the deposited plans in substitution for the footpath to be stopped up and to the reasonable satisfaction of the corporation of Rawtenstall or in case of difference between the Corporation and the corporation of Rawtenstall to the satisfaction of two justices of the county of Lancaster.

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Power to
deviate.

17. In constructing the works by this Act authorised the Corporation may deviate from the lines thereof to any extent not exceeding the limits of deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and may also deviate from the levels shown on the deposited sections to any extent not exceeding four feet upwards and to any extent downwards. Provided that if it be found necessary or expedient in the construction of the Cowpe Reservoir to alter the situation of the embankment the Corporation shall not construct such embankment of a greater maximum height above the general surface of the ground than four feet above the maximum height thereof shown on the deposited sections and that no part of the aqueducts by this Act authorised shall be constructed above the surface of the ground except so far as is shown on the deposited sections.

Power to
take waters.

18. Subject to the provisions of this Act the Corporation may for the purpose of their waterworks take collect use and appropriate all such streams springs and waters as can be taken or collected by the waterworks authorised by this Act (other than the aqueducts) and all waters found in on or under any of the lands acquired by the Corporation under the powers of this Act.

Compensa-
tion water.

19. With respect to the compensation water to be afforded by the Corporation the following provisions shall have effect (that is to say):—

- (1) As full compensation to all persons for taking diverting and appropriating the waters which are by this Act authorised to be taken the Corporation shall from and after the date on which they commence to supply water from the works authorised by this Act or from any of the streams springs and waters which they are by this Act authorised to take collect use or appropriate cause to be discharged from the Cowpe Reservoir or otherwise cause or permit to flow through or over the gauge to be provided as herein-after mentioned into the Cowpe Brook not less than three hundred and eighty-four thousand eight hundred gallons of water during twelve consecutive hours of every working day commencing at half past five in the morning of each such day in a regular and continuous flow. Provided always that the Corporation shall not be entitled to abstract take use or impound the waters of the Cowpe Brook or of any of the said streams springs and waters for the purpose of filling the Cowpe Reservoir and the Springholes High Level Reservoir prior to discharging the quantity of water by this section required to be discharged over or through the said gauge except at such times as

the natural flow from the drainage area of the Cowpe Brook and of the said streams springs and waters at the point of such abstraction shall in the aggregate exceed two hundred thousand gallons per diem and then only such waters as shall be in excess of that quantity : A.D. 1898.

(2) The Corporation shall construct and for ever after maintain within two hundred yards of the foot of the embankment of the Cowpe Reservoir a sufficient gauge for measuring the quantity of water to be discharged or to flow as aforesaid and such gauge shall be open to the inspection and examination of the borough surveyor of Rawtenstall and of the several persons for the time being interested in the water so to be discharged or to flow through or over the same :

(3) In case the Corporation omit or fail to discharge or cause to flow the quantity of water by this Act required to be discharged or to flow over or through the said gauge the Corporation shall for every day on which such omission or failure shall occur pay a penalty not exceeding fifteen pounds to the occupiers of any mills or works on the course of the Cowpe Brook who may have sustained loss by any such omission or failure.

20. If the works by this Act authorised and delineated on the deposited plans are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof respectively or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed. Period for completion of works.

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

22.—(1) The Corporation may for the purposes of their water undertaking construct lay down erect and maintain such aqueducts conduits mains pipes culverts sluices wells reservoirs tanks cisterns engines machinery buildings works and conveniences as they may from time to time deem necessary. Application of provisions of Public Health Acts as to water-works.

(2) The Corporation shall in carrying out the provisions of subsection (1) of this section have the powers of a local authority under section 54 of the Public Health Act 1875 in respect to the carrying of water mains within and without their district and for the purposes of that section the limits within which the Corporation

A.D. 1898. — are authorised to supply water shall be deemed to be the district of the Corporation.

(3) In the exercise of the powers of this section the Corporation shall be subject to the provisions so far as they are applicable of the Public Health Acts in the same manner and to the same extent as if such powers were conferred by those Acts.

Agreements with land-owners and district councils as to drainage.

23. The Corporation may enter into and carry into effect agreements with the owners of and other persons interested in any lands in or over which any water which the Corporation are authorised to take for the purposes of any of their waterworks arises or flows or with the district council for the district in which any such lands are situate with reference to the draining of such lands or to the collecting conveying and preserving the purity of such water or to the making and maintenance by both or either of the agreeing parties of such sewage and other works as may be necessary or expedient for those purposes and the Corporation may apply to the purposes of this section any part of the moneys authorised to be borrowed by them for the purposes of their water undertaking.

Byelaws for securing purity of water.

24.—(1) The Corporation may make byelaws for securing the purity of the water which they are authorised to take for the purposes of any of their waterworks and may by such byelaws prescribe the construction maintenance and use of proper sanitary conveniences and make provision for the prevention of nuisances and the prevention or regulation of any act or thing tending to pollution of the water.

(2) The byelaws made under this section shall be in force within the areas in or over which any water which the Corporation are authorised to take arises or flows or within so much of those areas as may be defined in the byelaws.

(3) The provisions with respect to byelaws contained in sections 182 to 185 of the Public Health Act 1875 (except so much thereof as relates exclusively to byelaws of a rural sanitary authority) shall apply to byelaws made by the Corporation under this section :

Provided that one month at least before submitting any such byelaws to the Local Government Board for confirmation a copy thereof or of the draft byelaws shall be furnished to the district council of every district comprising any part of the area within which it is proposed that the byelaws shall be in force and every such district council shall be entitled to lay before the Local Government Board any observations or objections respecting the same.

(4) The Corporation shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under the provisions of this section who shall be injuriously affected by the restrictions imposed by such byelaws and such compensation shall be settled in accordance with the provisions of the Lands Clauses Acts.

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25. The following provisions for the protection of the Lancashire and Yorkshire Railway Company (in this section referred to as "the company") shall unless otherwise agreed between the company and the Corporation have full force and effect:—

For protec-
tion of
Lancashire
and York-
shire Rail-
way Com-
pany.

(1) In constructing or laying the Aqueduct No. 3 by this Act authorised where the same is to be laid over the Britannia Tunnel on the company's Shawforth branch extension railway as also in effecting the maintenance repairs and renewals of such aqueduct the works shall be done under the superintendence (if the same be given) and to the reasonable satisfaction of the principal engineer of the company and according to plans to be submitted to and reasonably approved by him before any such works are commenced or in the event of difference by an engineer appointed in pursuance of subsection (4) of this section and all such works shall be executed by and at the expense of the Corporation and so as not to cause any injury to such railway or tunnel or interruption to the passage or conduct of the traffic over such railway. Provided that the engineer of the company shall approve or disapprove such plans within twenty-one days from the submission thereof otherwise such plans shall be deemed to have been approved by him:

(2) The Corporation shall repay to the company the reasonable expense of any temporary works or watching which may be reasonably necessary to provide for the protection of their railway or the traffic thereon during the carrying out of the works over the railway and adjacent thereto:

(3) If in the execution of the works any injury shall arise to such railway or interruption to such traffic the Corporation shall make full compensation to the company in respect of such injury or interruption the amount of such compensation to be recoverable from the Corporation by the company by all and the same means as any simple contract debt is recoverable:

(4) If any difference arise between the engineer of the Corporation and the engineer of the company with respect to any of the aforesaid matters in which the engineer of the company is expressed to be concerned such difference shall be referred to the arbitration of an engineer to be appointed by the two

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engineers or if they cannot agree by the President of the Institution of Civil Engineers on the application of the Corporation or the company.

For protection of corporation of Rawtenstall.

26. The following provisions for the protection and benefit of the corporation of Rawtenstall shall unless otherwise agreed between the corporation of Rawtenstall and the Corporation apply and take effect (that is to say):—

- (1) So much of the aqueducts authorised by this Act as will be situate in Cowpe Road shall be laid along the easterly side of that road:
- (2) Subsection (2) of the section of this Act whereof the marginal note is "Application of provisions of Public Health Acts as to waterworks" shall not apply to the highways streets or roads repairable by the corporation of Rawtenstall:
- (3) The medical officer of health or other officer duly appointed in that behalf by the corporation of Rawtenstall and exhibiting if required to do so his authority shall have power to enter upon the gathering grounds and waterworks of and belonging to the Corporation to inspect the same and shall be at liberty upon such inspection to take and carry away samples of water for the purposes of examination or analysis.

For protection of lords of honor of Clitheroe.

27. Subject to the rights of the Corporation to enter upon purchase and take under the powers of this Act any lands minerals and substrata and any rights and interests therein and to the provisions of the Waterworks Clauses Act 1847 with respect to mines and minerals and to the provisions of this Act relating to the making of byelaws by the Corporation nothing in this Act shall prevent the exercise by the lords of the honor of Clitheroe their lessees and tenants of any rights which they now possess of entering on the surface of any lands situate within, their honor and of working and winning minerals or substrata and depositing spoil and of constructing roads tramways and other ways under on or over any such lands or of using the water of any streams for boilers or other purposes.

For protection of James Maden Holt.

28. Notwithstanding anything in this Act the following provisions for the protection and benefit of James Maden Holt and his sequels in estate (all of whom are in this section referred to as "the owner") shall unless otherwise agreed between the owner and the Corporation apply and take effect (that is to say):—

- (1) In constructing and renewing the Aqueducts No. 2 and No. 3 authorised by this Act the Corporation shall not sink a trench exceeding six feet in depth at any point between the Lee Tramway and Stubby Lee Road and the Corporation shall

execute such works as shall be reasonably necessary to carry any percolating water from the southerly to the northerly side of such aqueducts at not more than six points situate between such tramway and road to be approved of by the owner or his agent so that such water may so far as practicable continue to flow in its present course :

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- (2) If any question shall arise between the Corporation and the owner as to the effect of this section or as to anything to be done or not to be done in pursuance thereof the same shall be determined by arbitration the arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.

SUPPLY.

29. The water supplied by the Corporation need not at any time be delivered at a pressure greater than that to be afforded by gravitation from the reservoir from which the supply is given.

Limit of pressure.

30. Where a house supplied with water is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall if the Corporation so determine pay the rate for the supply but the rate may be recovered from the occupier and may be deducted by him from the rent from time to time due from him to the owner Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

Rates payable by owners of small houses.

31. The Corporation may agree with any person to supply water by measure either for domestic or other purposes and the moneys payable for the supply of water under this section shall be recoverable in the same manner as rates due to the Corporation for water Provided always that no person shall be entitled to a supply of water for other than domestic purposes if such supply would interfere with the sufficiency of the supply of water for domestic purposes.

Supply of water by measure.

32.—(1) The Corporation shall not be required to supply with water otherwise than by measure any building used partly as a dwelling-house and partly as a warehouse or for any trade or manufacturing purpose for which water is required or any workhouse hospital or other large public institution.

Supply by meter in certain cases.

(2) Where the Corporation refuse to supply with water any building referred to in this section otherwise than by measure they

A.D. 1898. shall on the application of the occupier of such building supply the same with sufficient water for domestic purposes at a rate not exceeding two shillings for every thousand gallons and the moneys payable to the Corporation under this section shall be recoverable in the same manner as rates due to the Corporation for water. Provided that the Corporation shall not be compelled to afford to any premises a supply of water by measure for a less sum in any one quarter of a year than the amount of the rate which would have been payable in respect of such premises for a supply of water otherwise than by measure.

Provisions
where
supply is
by measure.

33. In cases in which the Corporation supply water by measure the following provisions shall have effect :—

- (1) Before any person connects or disconnects any meter by means of which any of the water of the Corporation is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Corporation of his intention to do so and no person shall connect or disconnect any such meter or execute any alterations and repairs thereof except under the superintendence of an officer of or person appointed by the Corporation. 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 Corporation shall at all times at his own expense keep all meters belonging to him whereby any water of the Corporation is registered in proper order for correctly registering such water in default whereof the Corporation may cease to supply water through such meter and the Corporation shall at all reasonable times have access to and be at liberty to take off remove test inspect and replace any such meter and the expense of such taking off removal testing inspecting and replacing shall be borne by the Corporation if the meter be found to be in proper order but in other cases such expense shall be borne by the consumer and shall be recoverable from him by the Corporation :
- (3) The register of any meter shall be *primâ facie* evidence of the quantity of water consumed by any customer of the Corporation in respect of which any water rate or rent is charged and sought to be recovered by the Corporation.

Fraudulently
injuring
meters &c.

34.—(1) Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Corporation or who fraudulently alters the index to any meter or other instrument for measuring water or fraudulently prevents any

meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Corporation shall (without prejudice to any other right or remedy for the protection of the Corporation or the punishment of the offender) for every such offence be liable to a penalty not exceeding five pounds and the Corporation may in addition thereto recover the amount of any damage by them sustained and the Corporation may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for insuring the proper registering by such meter or instrument of the quantity of water supplied by means thereof and the expenses so incurred by the Corporation shall be repaid to them by the offender.

A.D. 1898.

(2) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Corporation when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be *prima facie* evidence that such injury alteration prevention abstraction consumption or use as the case may be has been wilfully and fraudulently caused by the consumer using such pipe meter instrument or fittings.

35. The Corporation may enter into and carry into effect agreements with any local authority or person within or beyond the limits of the Act of 1894 for the supply by the Corporation to such authority or person respectively of water in bulk. Provided that it shall not be lawful for the Corporation to supply water under any such agreement as aforesaid beyond those limits and within the limits of supply of any local authority or company without their consent nor if and so long as such supply shall interfere with the continuous supply of water within the limits of the Act of 1894 for domestic purposes for sanitary purposes within the meaning of section 39 of the last-mentioned Act or for public baths and washhouses.

Supply of water in bulk.

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

Corporation not bound to supply several houses by one pipe.

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

Misuser where supply to several houses by a pipe common to all.

A.D. 1898.

Power to
Corporation
to supply
materials.

38. The Corporation may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter any such pipes valves cocks cisterns baths meters soil-pans water-closets apparatus and receptacles as are required or permitted by the byelaws of the Corporation and may provide all materials and do all work necessary or proper in that behalf and the reasonable charges of the Corporation in providing such materials and executing such work shall be paid by the person requiring the same.

Notice of
discontinu-
ance.

39. A notice to the Corporation 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 waterworks office for the time being of the Corporation.

Entry into
buildings to
inspect
fittings.

40. Any person duly appointed for the purpose by the Corporation and exhibiting his appointment if required to do so may between the hours of nine in the forenoon and five in the afternoon enter any building or place supplied with water or about to be supplied with water by the Corporation 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 he shall find there is any waste of water he may take such measures as may be reasonably necessary for preventing such waste 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 or preventing the waste the occupier of such premises shall for every such offence be liable to a penalty not exceeding forty shillings.

For protec-
tion of
certain
owners and
occupiers in
borough of
Rawtenstall.

41. Whenever the Corporation shall commence to supply water to any house or premises in the borough of Rawtenstall situate within the limits of the Act of 1894 which house or premises immediately prior to such time shall have been supplied with water by the mayor aldermen and burgesses of the borough of Bury the Corporation shall not require the owner or occupier of such house or premises to replace alter or renew any existing internal or external pipes or fittings in or upon such house or premises at his own cost but any such pipes or fittings as the Corporation may require to be replaced altered or renewed other than those worn out or defective shall be replaced altered or renewed at the expense of the Corporation and the Corporation shall restore and make good all such pipes and fittings not replaced altered or renewed as may prove defective by reason of the increased pressure of the water supplied by them for

[61 & 62 VICT.] *Bacup Corporation Water Act, 1898.* [Ch. clvi.]

the space of one month after the Corporation shall have commenced to supply water to such house or premises. A.D. 1898.

FINANCE AND MISCELLANEOUS.

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

(A) For the purchase of the lands for and the execution of the works authorised by this Act and for other the purposes of the water undertaking of the Corporation the sum of one hundred and forty thousand pounds;

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

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

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

44. 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 Corporation 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.

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

46. The Corporation shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as "the prescribed periods") following (that is to say).— Periods for repayment of money borrowed.

As to moneys borrowed for the purposes (A) mentioned in the section of this Act the marginal note whereof is "Power to

A.D. 1898.

borrow" within sixty years from the date or dates of the borrowing of the same ;

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

Mode of
payment off
of money
borrowed.

47. The Corporation shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of these methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund in respect of moneys borrowed for the purposes (A) mentioned in the section of this Act whereof the marginal note is "Power to borrow" shall be made not later than the thirty-first day of March one thousand nine hundred and six and in respect of other moneys shall be made within one year from the time of borrowing the sum in respect of which the payment is made.

Sinking
fund.

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

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

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

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

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

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

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

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

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

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

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

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking

A.D. 1898. fund) will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Corporation may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Corporation may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct.

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

Protection
of lender
from inquiry.

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

Corporation
not to regard
trusts.

50. The Corporation shall not be bound to see to the execution of any trust whether express implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages of the Corporation shall be sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register.

Appoint-
ment of
receiver.

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

52. If the Corporation pay off any moneys borrowed by them under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed moneys they may re-borrow the same but all moneys so re-borrowed shall be repaid within the prescribed period and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Corporation with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such re-borrowing.

A.D. 1898.

Power to
re-borrow.

53.—(1) The town clerk shall within twenty-one days after the thirty-first day of March in each year during which any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act or of the Act of 1894 transmit to the Local Government Board a return in such form as may from time to time be prescribed by that Board and if required by that Board verified by statutory declaration showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment of the sum accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of any wilful default in making such return the town clerk shall be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court.

Annual
return to
Local Go-
vernment
Board.

(2) If it appear to the Local Government Board by that return or otherwise that the Corporation have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required by this Act or by the Act of 1894 for any sinking fund or have applied any portion of any sinking fund to any purpose other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default shall have been made shall be paid or applied as in such order mentioned and any such order shall

[Ch. clvi.] *Bacup Corporation Water Act, 1898.* [61 & 62 VICT.]

A.D. 1898. be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

(3) Section 51 of the Act of 1894 is hereby repealed.

Application
of money
borrowed.

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

Proceeds of
sale of
surplus
lands.

55. The proceeds of the sale of any lands of the Corporation shall be distinguished as capital in the accounts of the Corporation and shall be applied in discharge of any moneys borrowed by the Corporation but shall not be applied to the payments of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board and borrowed money discharged by the application of such proceeds shall not be re-borrowed.

Existing
waterworks
of Corpora-
tion and
works
authorised
by this Act
to form one
undertaking.

56. The waterworks by this Act authorised shall for all purposes be deemed to form part of the waterworks undertaking of the Corporation and the provisions of the recited Acts so far as the same are applicable and are not varied by this Act shall extend to and form part of this Act Provided that from and after the passing of this Act section 41 of the Act of 1894 shall be read and have effect as if the words "reservoirs catchwaters filters" were inserted therein before the word "pipes" the provisions fifthly and sixthly of section 52 of that Act shall be read and have effect as if the words "for the purposes of the water undertaking of the Corporation" were therein inserted instead of the words "under this Act" and section 83 of the Waterworks Clauses Act 1847 shall cease to be incorporated with the Act of 1894.

Amendment of
provisions for
protection of
corporation of
Rawtenstall.

57. Section 39 of the Act of 1894 shall be read and have effect as if the words "ten years" were therein inserted instead of the words "seven years."

Authentica-
tion and
service of
notices.

58. Where any notice summons or other document (except a conveyance contract or security) under this Act or the Act of 1894 requires authentication by the Corporation the signature thereof by the town clerk shall be a sufficient authentication and any notices summonses and other documents required or authorised to be served under this Act or the Act of 1894 may be served in manner prescribed by section 267 of the Public Health Act 1875.

Recovery
and applica-
tion of
penalties &c.

59.—(1) Offences against this Act or the Act of 1894 and penalties forfeitures costs and expenses imposed or recoverable by

[61 & 62 VICT.] *Bacup Corporation Water Act, 1898.* [Ch. clvi.]

or under those Acts may be prosecuted and recovered in a summary manner. A.D. 1898.

(2) All penalties recovered under this Act or the Act of 1894 or under any byelaw thereunder respectively shall except in the case of penalties recovered against the Corporation be paid to the treasurer of the borough and be by him carried to the credit of the district fund.

60. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation and may be paid in the first instance out of any moneys in their hands but shall be charged to and recouped by the moneys which the Corporation are authorised to borrow under the powers of this Act. Costs of Act.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

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