

**CHAPTER cv.**

An Act to amend provisions of the Derwent Valley Water Acts 1899 to 1920 to provide for the abandonment of certain of the works authorised by those Acts to be constructed by the Leicester Corporation and to authorise that corporation to construct other works and for other purposes. A.D. 1935.
—
[2nd August 1935.]

WHEREAS the Derwent Valley Water Board (hereinafter referred to as "the Board") were incorporated by the Derwent Valley Water Act 1899 (hereinafter referred to as "the Act of 1899") and were by that Act and subsequent Acts and Orders authorised to construct and maintain certain reservoirs aqueducts and other works and thereby to impound water and to supply such water to certain municipal corporations and other local authorities but subject to the provisions of the said Acts and Orders including certain provisions contained in section 26 of the Derwent Valley Water Act 1920 (hereinafter referred to as "the Act of 1920") with regard to the compensation water to be discharged by the Board out of their said reservoirs and the quantities of water to be taken by the Board for the purposes of supply in certain circumstances :

And whereas the said section 26 of the Act of 1920 contained certain provisions for the benefit of the companies referred to in the First Schedule to that Act who were therein described as millowners on the river Derwent :

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And whereas questions have arisen between the parties now entitled or claiming to be entitled to the benefit of the said provisions of the Act of 1920 on the one hand and the Board on the other hand as to the effect of those provisions and the said parties and the Board have agreed to the provisions contained in this Act relating to matters hereinbefore referred to as a settlement of the said questions :

And whereas by the Act of 1899 the lord mayor aldermen and citizens of the city of Leicester by their then name of the mayor aldermen and burgesses of the borough of Leicester (hereinafter referred to as "the Leicester Corporation") as one of the constituents of the Board were empowered to construct certain waterworks for the storage of water to be supplied to them in bulk by the Board and certain other works for the conveyance of such water to the distribution system of the Leicester Corporation :

And whereas by the Derwent Valley Water Act 1904 (hereinafter referred to as "the Act of 1904") the whole or parts of certain of the works authorised to be constructed by the Leicester Corporation as aforesaid were abandoned and the Leicester Corporation were empowered to construct certain other works in substitution therefor :

And whereas by the Leicester (Waterworks) Order 1931 another work authorised by the Act of 1899 to be constructed by the Leicester Corporation was abandoned and the Leicester Corporation were empowered to construct certain other works in substitution therefor :

And whereas on a further consideration of the scheme of waterworks authorised by the Act of 1899 to be constructed by the Leicester Corporation as altered by the subsequent Act and Order hereinbefore referred to the Leicester Corporation desire to abandon certain other works authorised by the Act of 1899 and the Act of 1904 respectively and to construct other works in lieu thereof as provided by this Act :

And whereas it is expedient that the provisions hereinbefore referred to and the other provisions contained in this Act should be enacted :

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

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And whereas estimates have been prepared by the Leicester Corporation for the purchase of land for and the execution of the works by this Act authorised to be constructed by that Corporation and such estimates amount to the sum of thirty-nine thousand pounds for defraying which the money to be borrowed by the Leicester Corporation by virtue of a sanction granted by the Minister of Health under the provisions of the Leicester Corporation Act 1921 will suffice :

And whereas a plan and sections showing the lines and levels of the works authorised by this Act to be constructed by the Leicester Corporation and the lands to be taken for the purposes thereof and a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of such lands were duly deposited with the clerk of the county council of the administrative county of Leicester and the said documents are in this Act respectively referred to as the deposited plan sections and book of reference :

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

PART I.

PRELIMINARY.

1. This Act may be cited as the Derwent Valley Water Act 1935 and this Act and the Derwent Valley Water Acts and Orders 1899 to 1927 may be cited together as the Derwent Valley Water Acts and Orders 1899 to 1935.

Short and
collective
titles.

2. This Act is divided into Parts as follows :—

Act divided
into Parts.

Part I.—Preliminary.

Part II.—Water.

Part III.—Provisions relating to Leicester Corporation.

Part IV.—Miscellaneous.

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—
Incorporation
of Acts.

3. The following Acts and parts of Acts (that is to say) :—

The Lands Clauses Acts (except the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking);

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 also section 16 (Works which may be executed) of that Act;

The Waterworks Clauses Act 1847 except—

(a) the words “ with the consent in writing “ of the owner or reputed owner of any such “ house or of the agent of such owner ” in section 44;

(b) sections 75 to 82 (with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit); and

(c) section 83 (with respect to the yearly receipt and expenditure of the undertakers); and

The Waterworks Clauses Act 1863;

so far as they are applicable for the purposes of and are not varied by or inconsistent with this Act are hereby incorporated with and form part of this Act Provided that in the said provisions of the Railways Clauses Consolidation Act 1845 “ the company ” shall mean the Leicester Corporation “ the railway ” shall mean the works by this Act authorised to be constructed by the Leicester Corporation and “ the centre of the railway ” shall mean the centre lines as shown on the deposited plan of the aqueducts and lines of pipes so authorised and the top water line of the service reservoir so authorised.

Interpreta
tion.

4. In this Act unless the subject or context otherwise requires terms to which meanings are assigned by the Acts incorporated wholly or in part with this Act or which have therein special meanings have in this Act

(unless varied thereby) the same respective meanings .A.D. 1935.
And—

“ the Board ” means the Derwent Valley Water Board;

“ the Leicester Corporation ” means the lord mayor aldermen and citizens of the city of Leicester acting by the council of that city;

“ the Act of 1899 ” means the Derwent Valley Water Act 1899;

“ the Act of 1904 ” means the Derwent Valley Water Act 1904;

“ the Act of 1920 ” means the Derwent Valley Water Act 1920;

“ Work No. 4 of 1899 ” and “ Work No. 5 of 1899 ” mean respectively the Works Nos. 4 and 5 authorised by the Act of 1899 to be constructed by the Leicester Corporation;

“ Work No. 11 of 1904 ” “ Work No. 12 of 1904 ” “ Work No. 13 of 1904 ” “ Work No. 15 of 1904 ” and “ Work No. 16 of 1904 ” mean respectively the Works Nos. 11 12 13 15 and 16 authorised by the Act of 1904 to be constructed by the Leicester Corporation;

“ the four corporations ” means the mayor aldermen and burgesses of the borough of Derby the Leicester Corporation the lord mayor aldermen and citizens of the city of Nottingham and the lord mayor aldermen and citizens of the city of Sheffield;

“ the standing arbitrator ” means the standing arbitrator appointed under section 25 of the Act of 1899 and for the time being holding office.

5.—(1) In and for the purposes of this Act the expression “ the scheduled companies ” means the companies and person named in the first column of the schedule to this Act or other the owners for the time being of the mills and works on the river Derwent existing at the date of the passing of this Act and named in the second column of the said schedule opposite the names of the said companies and person respectively.

Definition
of “ the
scheduled
companies.”

(2) Notwithstanding anything in section 26 (As to compensation water) of the Act of 1920 the companies

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PART II.

WATER.

Amendment
of section 26
of Act of
1920.

6.—(1) (a) Notwithstanding anything contained in subsection (4) of section 26 (As to compensation water) of the Act of 1920 but subject to the following provisions of this subsection the Board shall during the period from the thirty-first day of December one thousand nine hundred and thirty-three until the date on which the dam of the Ladybower reservoir has been constructed to a height of not less than one hundred and twenty-eight feet above the bed of the river Derwent and that reservoir has been filled or the first day of February one thousand nine hundred and forty-four (whichever of such two last-mentioned dates shall be the earlier) be entitled and shall be deemed since the said thirty-first day of December one thousand nine hundred and thirty-three to have been entitled to take and use for the purposes of supply in any year any available water in excess of the maximum quantity prescribed by and from time to time applicable under the concluding part of the said subsection (4) which commences with the words “and the Board shall not in any event take and use for the purposes of supply.”

(b) The Board shall pay to English Sewing Cotton Company Limited (or such other person or company as may from time to time be nominated by a majority of the scheduled companies) on behalf of the scheduled companies as compensation in respect of every million gallons of the excess water mentioned in paragraph (a) of this subsection so taken during the period also mentioned in that paragraph a sum equal to the market price of one and a half tons of coal delivered at Masson Mills Matlock Bath and a proportionate sum in respect of any fraction of a million gallons.

(c) For the purposes aforesaid the quantity of excess water so taken shall be calculated and paid for in respect

of the year one thousand nine hundred and thirty-four and each subsequent calendar year as soon as reasonably possible after the end of such year.

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(d) The quantity so taken shall be ascertained by the meters or gauges referred to in subsection (6) of the said section 26 and the market price of coal shall be the average market price of coal so delivered as aforesaid in such year.

(e) The sums payable as aforesaid shall be in full satisfaction of all claims by the scheduled companies or any of them in respect of the taking and using of such excess water.

(f) Subsection (5) of the said section 26 is hereby repealed and shall be deemed as from the said thirty-first day of December one thousand nine hundred and thirty-three to have ceased to have effect.

(g) From and after the date when the dam of the Ladybower reservoir shall have been constructed to a height of not less than one hundred and twenty-eight feet above the bed of the river Derwent and that reservoir shall have been filled this subsection and subsection (4) of the said section 26 shall cease to have effect.

(2) Any reference in the said section 26 to "this section" shall be construed as a reference to the said section 26 as amended by this section.

7. For the purpose of measuring the compensation water to be discharged from the Derwent reservoir pursuant to the Derwent Valley Water Acts and Orders 1899 to 1935 the measuring gauge shall be constructed and maintained at some point within two hundred yards of the outlet of the said reservoir and so much of section 3 (Further provisions as to compensation water gauges) of the Derwent Valley Water Act 1912 as is inconsistent with this section shall cease to have effect.

As to measurement of compensation water from Derwent reservoir.

8. As soon as practicable after the passing of this Act the Board and English Sewing Cotton Company Limited shall at the expense of the Board transfer and pay to the Board—

Transfer to Board of certain investments.

(a) the securities standing in their joint names and representing the investment of four several sums of five thousand pounds forfeited by the Board pursuant to subsection (5) of section 26 (As to

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compensation water) of the Act of 1920 or the investment of accumulated income from such investment; and

(b) the amount (if any) of the interest on the said securities for the time being not invested;

and the securities (or the proceeds thereof) and any sum of money so transferred and paid to the Board shall be applicable by the Board to any of the purposes of their undertaking.

Period for
completion
of Lady-
bower
reservoir.

9. If the construction of the dam of the Ladybower reservoir to a height of not less than one hundred and twenty-eight feet above the bed of the river Derwent shall not have been completed before the first day of February one thousand nine hundred and forty-four then as from that date the powers conferred by the Act of 1920 for such construction or otherwise in relation thereto shall cease.

PART III.

PROVISIONS RELATING TO LEICESTER CORPORATION.

Abandon-
ment by
Leicester
Corporation
of certain
works
authorised
by Acts of
1899 and
1904.

10. The Leicester Corporation may and shall abandon the construction of the following works and portions of works authorised by the Act of 1899 and the Act of 1904 respectively to be constructed by them (that is to say):—

- (a) Work No. 4 of 1899;
- (b) Work No. 5 of 1899;
- (c) So much of Work No. 11 of 1904 as is authorised to be constructed between Work No. 5 of 1899 and Work No. 12 of 1904;
- (d) Work No. 13 of 1904;
- (e) So much of Work No. 15 of 1904 as is authorised to be constructed between Work No. 5 of 1899 and Work No. 16 of 1904.

Compensa-
tion to
owners of
land for
entry &c.
for purposes
of works
abandoned.

11. The abandonment by the Leicester Corporation of the works by this Act authorised to be abandoned by them shall not prejudice or affect the right of the owner or occupier of any land to receive compensation for any damage occasioned by the entry of the Leicester Corporation on such lands for the purpose of surveying and taking levels or probing or boring to ascertain the nature

of the soil or setting out of the line of the work and shall not prejudice or affect the right of the owner or occupier of any land which has been temporarily occupied by the Leicester Corporation to receive compensation for such temporary occupation or for any loss damage or injury which has been sustained by such owner or occupier by reason thereof or of the exercise as regards such land of any of the powers of the Railways Clauses Consolidation Act 1845.

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12. Subject to the provisions of this Act the Leicester Corporation may make and maintain in the lines or situations and according to the levels shown on the deposited plan and sections the works in the parish of Newtown Linford in the rural district of Barrow-upon-Soar in the county of Leicester hereinafter described together with all proper works and conveniences connected therewith or ancillary thereto (that is to say):—

Power to
Leicester
Corporation
to construct
works.

Work No. 25 A middle level service reservoir at Hallgates in the enclosure Nod. 253 on the 1/2500 Ordnance map (1929) Leicestershire sheet No. XXIV.12;

Work No. 26 An aqueduct consisting of a line of pipes commencing by a junction with an existing main of the Leicester Corporation and terminating in the service reservoir (Work No. 25) by this Act authorised;

Work No. 27 An aqueduct or line or lines of pipes commencing in the service reservoir (Work No. 25) by this Act authorised and terminating by a junction with Work No. 16 of 1904;

Work No. 28 (second Hallgates overflow) A line of pipes commencing in the service reservoir (Work No. 25) by this Act authorised and terminating in a watercourse on the north-western boundary of the said enclosure Nod. 253 on the said Ordnance map.

13. The provisions of the Act of 1899 and of the Act of 1904 respectively relating to the works and portions of works to be abandoned under the provisions of this Act (other than section 147 (Time for completion of works) of the Act of 1899 as amended by subsequent Acts) shall have effect with reference to the works by this Act authorised to be constructed by the Leicester

Adaptations
of Acts of
1899 and
1904 to
alterations
authorised
by this Act.

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Corporation as if the last-mentioned works had been described in and authorised by the said Acts in substitution for the works to be abandoned as aforesaid and for that purpose references in the said Acts to “the Leicester plans” and “the Leicester sections” shall subject to the provisions of this Act be construed so far as applicable as references to the deposited plan and sections.

Agreements
as to sale
and pur-
chase of
land re-
quired for
works.

14.—(1) The county council of the administrative county of Leicester and the Leicester Corporation as custodian trustees under a deed of trust dated the fourteenth day of May one thousand nine hundred and thirty of an open space public park or recreation ground in the said county (in this section referred to as “the open space”) which adjoins or lies near to another open space public park or recreation ground in the said county known as Bradgate Park on the one hand and the Leicester Corporation on the other hand may notwithstanding anything contained in the said deed of trust or in another deed of trust dated the twenty-ninth day of December one thousand nine hundred and twenty-eight under which the said county council and the Leicester Corporation are the custodian trustees of Bradgate Park enter into and carry into effect agreements for the sale or grant to and the purchase or acquisition by the Leicester Corporation of so much of the open space or such easements or rights therein as may be required for the purposes of or in connection with the works by this Act authorised to be constructed by the Leicester Corporation. The price to be paid by the Leicester Corporation for such purchase or acquisition shall be such as may be determined by a surveyor to be appointed by the President of the Chartered Surveyors Institution on the application of either party.

(2) Any deed of conveyance or grant executed by the said custodian trustees in exercise of the powers of this section shall be effectual for vesting in the Leicester Corporation freed and discharged from all the provisions of the deeds of trust referred to in subsection (1) of this section the lands or the easements and rights in land expressed to be conveyed or granted by such deed.

(3) The purchase money payable as consideration for such sale shall be paid by the Leicester Corporation to the said custodian trustees and invested by them in

their joint names or in the name or names of a nominee or nominees in any securities in which trustees are for the time being authorised to invest trust moneys and the income arising from such investment shall be applied by the said custodian trustees in or towards the management maintenance and upkeep of the properties for the time being subject to the provisions of the said trust deeds. A.D. 1935.

15. For the purposes of section 31 (Increased borrowing powers of Corporation under the Derwent Valley Water Act 1899) of the Leicester Corporation Act 1921 the works authorised by this Act to be constructed by the Leicester Corporation shall be deemed within the meaning of the second proviso to that section to be works which the Leicester Corporation may execute in substitution for but being of the same character as the works described in and authorised by the Act of 1899. Borrowing powers.

PART IV.

MISCELLANEOUS.

16. Section 33 (Accommodation of workmen employed on authorised works) of the Act of 1920 is hereby repealed and in substitution therefor the following provisions shall have effect (that is to say):— Accommodation of workmen employed on authorised works.

(1) The Board shall erect fit up and maintain or provide—

(a) such huts or buildings for the accommodation of the workmen employed in and about the construction of the works authorised by the Act of 1920 and preliminary thereto;

(b) such hospital accommodation for the treatment of cases of sickness or accident among such workmen or their wives or families residing with them including accommodation for dealing with infectious diseases;

as shall be reasonably necessary having regard to the accommodation available in the neighbourhood of or conveniently accessible from the said works and shall provide and maintain proper and sufficient sanitary accommodation in connection with every such building and hospital:

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- (2) The Board shall pay all reasonable costs and expenses incurred in respect of the medical and surgical treatment of any workmen employed as aforesaid who are treated in any hospital accommodation provided by them except in so far as such costs and expenses are payable under the provisions of the National Health Insurance Acts 1924 to 1930 or otherwise :
- (3) The medical officer of health and inspectors of nuisances of the rural district council of Chapel-en-le-Frith (in this section referred to as "the council") shall be entitled at any time to enter into and inspect and examine any accommodation afforded under this section in order to ascertain whether overcrowding exists therein and whether proper and sufficient sanitary arrangements are provided :
- (4) The Board shall give such officials all facilities and information which they require for the purpose of the performance of their duties including the right to enter upon the said works and any person obstructing such officials in the performance of their duties under this section shall be liable on summary conviction to a penalty not exceeding forty shillings :
- (5) If at any time it appears to the council that the Board have failed to comply with their obligations under subsection (1) of this section the Board shall afford and maintain such accommodation as the council may reasonably require Provided that if within fourteen days after the receipt of notice of any requirement of the council under this subsection the Board give notice to the council that they dispute the reasonableness of any such requirement the difference shall be determined by the Minister of Health on the application of either of the parties to the difference and the said Minister may make such requirements (if any) in variation of the requirements of the council as he may think fit :
- (6) If the Board fail to afford and maintain accommodation in accordance with the provisions of this section they shall be liable on summary

conviction to a penalty not exceeding twenty pounds and to a further penalty not exceeding five pounds for every day on which any offence is continued after conviction and such penalties may be recovered by the council.

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17. For the purposes of the definition of "statutory securities" in section 218 (Definitions) of the Local Government Act 1933 any securities created by the Board shall be deemed to be securities created by a local authority.

As to securities of Board.

18. The Board may for paying the costs of this Act as hereinafter defined from time to time independently of any other borrowing power borrow at interest on the security of their revenue and of the moneys receivable by them from the four corporations the sum necessary for that purpose.

Power to Board to borrow for costs of Act.

19. The provisions of the following sections of the Act of 1899 (that is to say):—

Incorporation of certain sections of Act of 1899.

Section 85 (Apportionment of expenditure of Board);

Section 98 (Mode of raising money) in the amended form of that section enacted by the Derwent Valley Water Order 1914;

Section 99 (Mode of payment off of money borrowed) except the proviso to that section;

Section 100 (Sinking fund);

Section 101 (Periods for payment of moneys borrowed) as amended by subsequent Acts;

Section 102 (Protection of lender from inquiry);

Section 103 (Board not to regard trusts);

Section 104 (Appointment of receiver);

Section 105 (Power to re-borrow);

Section 107 (Application of money borrowed);

Section 108 (Board may issue stock); and

Section 110 (Power of Board to issue precepts for money to the four corporations);

shall extend and apply mutatis mutandis to and in relation to the Board and the borrowing and re-borrowing of

A.D. 1935. moneys under the powers of this Act and the repayment thereof and are incorporated with this Act.

Returns to
Minister of
Health.

20. The provisions of section 199 (Return to Minister) of the Local Government Act 1933 shall extend and apply to the Board as if they were a local authority for the purposes of Part IX (Borrowing) of that Act and accordingly section 106 (Annual return to Local Government Board) of the Act of 1899 and the provisions of any subsequent Act extending and applying that section are hereby repealed.

Saving
rights of
Duchy of
Lancaster.

21. Nothing contained in this Act shall extend or operate to authorise the Board to take use enter upon or in any manner interfere with any land soil water or hereditaments or any land parcel of any manor or any manorial rights or any other rights of whatsoever description belonging to His Majesty in right of His Duchy of Lancaster without the consent in writing of the chancellor for the time being of the said duchy first had and obtained (which consent the said chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by His Majesty His heirs or successors in right of His said duchy.

Costs of Act.

22. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Board out of their revenue and the contributions of the four corporations or out of moneys borrowed under the powers of this Act and the Leicester Corporation shall repay to the Board (in addition to the contribution to be made by them as one of the four corporations) such proportion of the said costs charges and expenses as may be agreed upon between the Board and the Leicester Corporation or as in default of such agreement shall be settled by the standing arbitrator and such additional proportion of the said costs charges and expenses may be paid by the Leicester Corporation out of moneys borrowed by them under the powers of the Act of 1899 as amended by section 31 of the Leicester Corporation Act 1921.

The SCHEDULE referred to in the
foregoing Act.

A.D. 1935.

MILLOWNERS ON RIVER DERWENT.

Owners.	Mills or works.
The Fine Cotton Spinners' & 'Doubblers' Association Limited.	Bamford Mills.
English Sewing Cotton Company Limited	{ Masson Mills. Belper Mills. Milford Mills.
Richard Johnson & Nephew Limited	- Alderwasley Mills Ambergate.
Walter Evans & Company Limited -	- Darley Abbey Mills.
Bleachers Association Limited -	- Peckwash Mill.
James Greaves Mudford trading as J. H. Mudford & Sons.	Calver Mill.

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