

**CHAPTER cclxxiii.**

An Act to authorise the Mayor Aldermen and Burgesses of the borough of Devonport to purchase the undertaking of the Devonport Gas and Coke Company and to supply gas within the borough of Devonport and for other purposes. [17th August 1901.]

A.D. 1901.

WHEREAS the borough of Devonport in the county of Devon is a municipal and county borough under the management and local government of the mayor aldermen and burgesses of the borough of Devonport (in this Act called "the Corporation") who acting by the council are the urban sanitary authority of the borough :

And whereas by the Devonport Gas and Coke Act 1853 the Devonport Gas and Coke Company (in this Act called "the company") were constituted and empowered to supply gas within the municipal borough of Devonport as then existing and the company are now supplying gas within those limits :

And whereas the capital of the company is fifty thousand pounds all of which has been issued and paid up and the company have borrowed fifteen thousand pounds on mortgage of their undertaking :

And whereas it is expedient that the undertaking of the company and all the property powers privileges rights and duties whatsoever of the company should be transferred to and vested in the Corporation and that the Corporation should be empowered to manufacture gas and residual products upon the existing premises of the company and to store gas thereon and to supply gas within the limits defined by this Act and to construct and maintain additional gasworks and for that purpose to acquire the additional lands in this Act mentioned in that behalf :

A.D. 1901. And whereas it is expedient to make better provision in regard to the supply of gas within the borough :

And whereas estimates have been prepared by the Corporation of the sum required for the purchase of lands and the extension and improvement of gasworks being permanent works within the meaning of section 234 of the Public Health Act 1875 and such estimates amount to the sum of one hundred thousand pounds :

And whereas plans describing the lands which may be taken compulsorily under the powers and for the purposes of this Act and a book of reference to those plans 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 peace for the county of Devon and are in this Act respectively referred to as the deposited plans and book of reference :

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

And whereas an absolute majority of the whole number of the council at a meeting held on the twentieth day of December one thousand nine hundred after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the *Western Independent* a local newspaper circulating in the borough such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the district fund and general district rate of the borough :

And whereas such resolution was published twice in the *Western Independent* a newspaper circulating in the borough 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 twenty-first day of February one thousand nine hundred and one 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 :

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) :— A.D. 1901.

PART I.

PRELIMINARY.

1. This Act may be cited as the Devonport Corporation (Gas) Act 1901. Short title.

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

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

The Gasworks Clauses Act 1847 (except the provisions thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit and sections 38 43 and 47) and the Gasworks Clauses Act 1871 (except sections 7 8 24 25 26 27 29 and 35) shall apply to the gas undertaking of the Corporation.

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

And in this Act unless the context otherwise requires—

“The borough” means the borough of Devonport;

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

“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 company” means the Devonport Gas and Coke Company;

“The undertaking of the company” includes all the works lands mains pipes real and personal property powers rights privileges and authorities vested in or belonging to or held or enjoyed by the company at the date of the transfer of their undertaking to the Corporation under the provisions of this Act except the books and papers relating

A.D. 1901.

exclusively to the shareholders in and the members and constitution of the company ;

“ Statutory securities ” means securities in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest money and any mortgage bond debenture debenture stock stock or other security (not being annuities rentcharges or securities transferable by delivery) authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or of any other local authority as defined by section 34 of the Local Loans Act 1875 other than securities of the Corporation.

Gas limits.

4. The limits within which the Corporation shall be authorised to supply gas and to exercise all their rights powers and privileges relating to gas shall be the borough.

PART II.

TRANSFER OF UNDERTAKING.

Transfer of
company's
undertaking.

5.—(1) The company shall sell and the Corporation shall purchase the undertaking of the company for such price or consideration being a sum in gross and on such terms and conditions as may be agreed upon between the company and the Corporation or as failing such agreement shall be determined by arbitration in manner provided by the Lands Clauses Acts with reference to the purchase and taking of lands otherwise than by agreement and in the construction of the said provisions the expression “ the promoters of the undertaking ” shall mean the Corporation and the expression “ lands ” shall mean the undertaking of the company.

(2) The Corporation shall give notice to treat to the company within six months after the passing of this Act.

(3) In assessing the sum to be paid by the Corporation to the company and in determining the rates of dividends to be hereafter paid by the company the maximum dividends which the company are authorised by law to pay to their shareholders shall be deemed to be the dividends which the company paid to their shareholders in the year ending thirty-first day of May one thousand nine hundred Provided always that neither the company nor their shareholders shall be entitled to any compensation in respect of any deficiency of dividends in former years.

(4) The existing reserve fund of the company shall remain the property of the company but the company shall bear and pay there-

out the whole of the costs charges and expenses incurred by them or on their behalf in connection with or incidental to the petition presented to the court of quarter sessions for the borough of Devonport by Albert Bamford Pilling and John Francis Burns and in connection with and incidental to the promotion of the Devonport Gas and Coke Bill and the opposition to the Devonport Corporation (Gas) Bill in the present session of Parliament and the company shall not claim or be entitled to be recouped by the Corporation their expenditure in respect of the said costs charges and expenses.

(5) The Corporation shall as from the transfer of the undertaking pay to Albert Bennee the present chairman and managing director of the company the sum of one hundred and fifty pounds a year during the rest of his natural life Provided always that the Corporation may by agreement with the said Albert Bennee commute the said annual sum by the payment of a sum in gross.

(6) The Corporation shall also pay compensation to the manager and secretary of the company respectively in respect of any direct pecuniary loss by abolition of office or diminution or loss of salary by reason of the transfer of the undertaking of the company to the Corporation the amount of such compensation in default of agreement to be determined by arbitration as aforesaid regard being had in the case of each to the conditions on which his appointment was made to the duration of his service and to the emoluments which he might have acquired if he had not refused to accept any office offered to him by the Corporation and to all the other circumstances of the case.

(7) In the sum to be paid by the Corporation to the company as the price or consideration for the purchase there shall be included in addition to the amount awarded in respect of dividends a further sum equal to the amount of all debts and liabilities (other than the said mortgage debt of fifteen thousand pounds) bonâ fide incurred by the company and which under the provisions of this Act are to be paid and discharged and satisfied by the company save and except the costs charges and expenses which are to be borne and paid by the company out of the reserve fund.

(8) The Corporation shall pay the purchase-money to the company on such day as may be agreed between the company and the Corporation or failing agreement on the thirtieth day of June or the thirtieth day of December then next after the date of the award determining the amount of the purchase-money and on such day for payment the undertaking of the company with their rights

A.D. 1901. powers and privileges shall by virtue of this Act become and shall thenceforth be transferred to and vested in the Corporation freed and absolutely discharged from all charges debts and liabilities upon or affecting the same or due from or payable by the company except the said mortgage debt and such transfer and vesting are in this Act referred to as "the transfer."

(9) The production of a King's Printer's copy of this Act duly stamped together with a receipt for the purchase money purporting to be signed by three directors of the company or by the cashier of the Bank of England shall (unless it be proved that the purchase money has not been paid) be conclusive evidence in all courts and proceedings of the transfer to and vesting in the Corporation of the undertaking of the company.

Mortgage debt of company to be a charge on undertaking.

6. The mortgage debt of the company and the interest thereon shall after the transfer of the undertaking of the company and until discharged be a first charge on the gas undertaking of the Corporation.

Company's debts to be paid and received.

7. All debts and liabilities (other than the said mortgage debt) which at the time of the transfer are due from or payable by the company shall be paid and discharged and satisfied by the company and the company shall indemnify the Corporation against the same Provided that the company shall be entitled to receive the maximum authorised dividends on the capital of the company from the date on which dividend shall last have been paid up to the transfer the dividends being treated for the purpose of this section as accruing from day to day.

Maintenance of undertaking by company till transfer.

8. Until the transfer the undertaking of the company shall be maintained and carried on by the company as heretofore in the ordinary course of business but the company shall not as from the 25th day of April 1901 without the previous consent of the Corporation under the hand of the town clerk (which consent shall not be unreasonably withheld) incur any liability on capital account nor shall they except with such consent make or enter into any contract agreement or obligation except such as shall be in the ordinary course of the maintenance of the works and the proper conduct of the undertaking Provided that the Corporation may at all reasonable times after the passing of this Act enter upon and have access to and the right to inspect the lands works and property of the company and to examine their books and accounts.

Repeal of company's Act.

9. The Devonport Gas and Coke Act 1853 shall as from the transfer to the Corporation of the undertaking of the company be

repealed except so far as may be necessary to give effect to the provisions of this Act with respect to the winding up and dissolution of the company. A.D. 1901.

10. If at the date of the transfer any action arbitration or proceeding or any cause of action arbitration or proceeding is pending or existing against or in favour of the company the same shall not abate or be discontinued or in any wise prejudicially affected by reason of the transfer or of anything in this Act but the same may be continued prosecuted and enforced against or in favour of the Corporation as and when it might have been continued prosecuted and enforced against or in favour of the company if this Act had not been passed but not further or otherwise and the company shall give to the Corporation before the date of the transfer reasonable notice of any such action arbitration or proceeding or cause of action arbitration or proceeding and if required indemnify the Corporation from and against the same. Pending actions &c. against or in favour of company.

The company shall receive all gas rents and other debts due to them and shall be entitled to all receipts from the undertaking of the company up to the transfer Provided that nothing in this Act contained shall entitle the company to retain for their own benefit any dividends hereafter payable in excess of the maximum dividends at the rates heretofore paid by them accrued due to them up to the transfer nor to retain for their own benefit so much of any rents or other payments paid or payable in advance as shall be attributable to any period after the transfer nor shall relieve the Corporation from liability to so much of any rates taxes or other payments paid by the company attributable to any period after the transfer but such rents rates taxes or other payments shall be apportioned and so much thereof as is attributable to any period after the transfer shall be paid over by the company to the Corporation or by the Corporation to the company as the case may be.

11. Except as by this Act otherwise provided all agreements contracts conveyances leases deeds and other instruments affecting the company and in force at the time of the transfer shall after the transfer be as binding and of as full force and effect against or in favour of the Corporation and may be enforced as fully and effectually as if instead of the company the Corporation had been a party thereto and the company shall make full disclosure thereof to the Corporation within a reasonable time after the service upon the company of the aforesaid notice to treat. Contracts of company to be binding on Corporation.

12. All books and documents which if the transfer had not been made would have been evidence in respect of any matter for Books &c. to remain evidence.

A.D. 1901.

or against the company shall be admitted in evidence in respect of the same and the like matter for or against the Corporation.

Receipt for
purchase
money.

13. The receipt in writing of three directors of the company for any money paid to the company by the Corporation shall effectually discharge the Corporation from the sum which in such receipt shall be acknowledged to have been received and from being concerned to see to the application thereof and from being answerable or accountable for the loss misappropriation or non-application thereof Provided that if from any cause the Corporation are unable to obtain such receipt they may pay the money into the Bank of England to the account of the Paymaster-General for and on behalf of the High Court to be placed in the books at the pay office to an account to be opened in the matter of this Act and a receipt for the money shall be given to the Corporation by the cashier of the said Bank which shall have the same effect as the receipt of such three directors.

Application
of purchase
money pay-
able to
company.

14. Subject to the provisions of this Act the company shall hold the reserve fund and the purchase-money paid to them by the Corporation under this Act in trust to pay apply and distribute the same amongst the shareholders in the company rateably according to the amount of the maximum dividend declared to be payable to each shareholder and for the purpose of such distribution the several persons whose names shall appear in the books of the company at the date of the transfer as being the proprietors of shares therein shall unless the contrary be proved to the satisfaction of the directors be considered to be shareholders of the company and the receipt in writing of such persons or of their executors or administrators or of the committee or guardian of the estate of any of such persons who shall be an idiot lunatic or minor shall be an effectual discharge to the company and the directors thereof for the money therein expressed to be received and shall exonerate them from any obligation affecting the shares or interest in respect whereof that money is paid.

Payment
into court
by directors.

15. Where the directors of the company are for six months after the transfer unable after diligent inquiry to ascertain the person to whom any part of the purchase-money of the undertaking or other moneys of the company is payable or where any part thereof is payable to a person from or on behalf of whom an effectual receipt cannot be obtained or on account of any other reasonable cause the directors may pay the same into the High Court or if not exceeding five hundred pounds into the county court under any Act for the time being in force for the relief of

trustees and every such payment into court shall conclusively discharge the company and the directors from all further liability with respect to the money so paid. A.D. 1901.

16. So soon as conveniently may be after the transfer the affairs of the company shall be wound up and for that purpose the directors of the company then in office and the survivors of them shall continue in office without re-election and may and shall exercise all powers necessary for the distribution of the purchase-money and for winding up the affairs of the company and when and so soon as such moneys have been distributed and their affairs have been wound up the company shall be by virtue of this Act dissolved. Winding up and dissolution of company.

If the number of directors of the company be reduced by death resignation or otherwise below three before the completion of such winding-up the continuing directors shall choose a shareholder or shareholders of the company to fill the vacancy or vacancies so caused.

PART III.

GAS LANDS AND GAS.

17. Subject to the provisions of this Act and for the purposes of this Act and other the general purposes of their gas undertaking the Corporation may enter upon take and use the lands shown on the deposited plans and described in the deposited book of reference which lands are more particularly firstly and secondly described in the schedule to this Act. Power to purchase lands.

18. The powers of the Corporation under this Act for the compulsory purchase of lands shall cease after the expiration of three years from the passing of this Act. Period for compulsory purchase of lands.

19. The Corporation may for the purposes of their undertaking purchase take and hold (by agreement but not otherwise) in addition to the lands described in the schedule to this Act any lands and hereditaments not exceeding in the whole ten acres which the Corporation may require for the purposes of their gas works and undertaking but the Corporation shall not create or permit a nuisance on any such lands and no lands shall be used by the Corporation for the purpose of manufacturing gas or residual products except the lands described in the schedule to this Act. Power to purchase lands by agreement.

A.D. 1901.
Restriction
on taking
houses of
labouring
class.

20.—(1) The Corporation 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.

(2) If the Corporation acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions 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.

(3) For the purposes of this section—

The expression “labouring class” means mechanics artificers 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; and

The expression “house” means any house or part of a house occupied as a separate dwelling.

Power to
sell lands.

21. Subject to the provisions of the Lands Clauses Acts the Corporation may sell lease exchange or otherwise dispose of any lands acquired by or vested in them under this Act and not for the time being required for the purposes thereof.

Powers as to
construction
and mainten-
ance of gas-
works &c.

22. Subject to the provisions of this Act the Corporation may continue maintain improve alter and enlarge the existing gasworks upon the lands on which the same are erected or any part thereof and which are thirdly described in the schedule to this Act and may also on those lands and on the lands firstly and secondly described in the said schedule make erect and maintain additional gasworks retort houses retorts gas holders reservoirs purifiers water-gas plant stores sewers drains mains pipes meters machinery and other apparatus works and conveniences for the manufacture conversion utilisation storage and supply of gas coke tar pitch and other residual products obtained in the manufacture of gas and matters

producible therefrom and may make store convert and supply gas and all other residual products as aforesaid and may manufacture purchase sell supply and deal in coke tar pitch lime ammoniacal liquor sulphate of ammonia oil and other residual products arising or resulting therefrom or used in the manufacture of gas.

A.D. 1901.

23. From and after the first day of January one thousand nine hundred and three the following provisions shall have effect (that is to say):—

Pressure and
quality of
gas.

(1) All gas supplied by the Corporation to any consumer of gas shall be supplied at such pressure as to balance a column of water not less than one inch in height at the top of a service pipe to a public lamp and any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment test the pressure at which the gas is supplied and may for that purpose use any public lamp as aforesaid and subject to the provisions of this section of this Act the provisions of the Gasworks Clauses Act 1871 with reference to testing of gas and to penalties shall mutatis mutandis apply to such testing of pressure:

(2) The prescribed number of candles shall be not less than fifteen:

(3) No forfeiture shall be incurred in any case with respect to which it is proved before the justices that the defect of illuminating power or insufficiency of pressure or excess of impurity was occasioned by unavoidable cause or accident:

(4) In the event of the gas examiner finding any defect of illuminating power or purity or deficiency of pressure in the gas he shall forthwith give notice thereof to the town clerk at his office.

24. Within six months after the transfer a testing place shall be provided at the gasworks of the Corporation.

Testing
place.

25. The prescribed burner shall be Sugg's London argand burner No. 1 or such other burner as shall for the time being be approved by the Board of Trade.

Burner.

26. The price to be charged by the Corporation for gas supplied by them to persons who shall burn the same by meter shall not at any time exceed four shillings per one thousand cubic feet.

Limiting
price of gas.

27. 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

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

A.D. 1901. gas and may lay down take up alter relay or renew in across or
along such street such pipes and apparatus as may be requisite or
proper for the furnishing such supply.

As to con-
struction and
placing of
pipes &c.
between
mains and
meters.

28. In order to enable the Corporation to ensure a satisfactory supply of gas to their consumers the following provisions shall have effect:—

- (1) The Corporation may specify the size and material of the pipes with the fittings thereof which are to be laid by the consumer between the Corporation's mains and the meter and (so far as the same are intended to be covered over) on the consumer's premises :
- (2) The Corporation may if they think fit make different specifications for different classes of premises having regard to the probable maximum consumption of gas thereon at any one time :
- (3) The specification shall be published twice in some newspaper circulating in the borough and a copy thereof shall be kept exhibited in the office of the town clerk :
- (4) Every meter to be used in a new building or a building not previously supplied with gas or in connection with a new or substituted pipe laid by the consumer between the main and the consumer's meter shall be placed as near as reasonably practicable to the Corporation's main but within the outside wall of the building :
- (5) When any such pipe or meter as aforesaid has been laid or placed notice thereof shall be given to the Corporation and the pipe shall not be covered over until after the expiration of twenty-four hours from the service of such notice on the Corporation Any officer of the Corporation duly appointed may between nine o'clock in the morning and five o'clock in the afternoon attend and inspect such pipes (with their fittings) and meter and if the officer is not permitted to make the inspection or if the pipes or fittings are not according to the Corporation's specification or if the meter is not placed as required by this section the Corporation may refuse to supply gas to the premises until the provisions of this section have been complied with :
- (6) Any person to whom the Corporation refuses a supply of gas under the provisions of this section may appeal to a petty sessional court against such refusal and the court may after hearing the parties and considering any questions as to the reasonableness of the Corporation's specification make such order as seems to them proper in the circumstances and may

order by which of the parties the costs of and incident to the appeal shall be paid. A.D. 1901.

29. If any person is required by the Corporation to give to them security for the payment of the price or rent of a meter the Corporation shall pay interest after the rate of four pounds per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands. Corporation to pay interest on money deposited as security for gas meter &c.

30.—(1) The Corporation may sell let for hire or otherwise deal in fix repair and remove but shall not manufacture engines stoves ranges pipes and other fittings for lighting for motive power for the warming and ventilating of houses and buildings for the cooking of food and for all other purposes for which gas can or may be used and may provide all materials and do all work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon between the Corporation and the persons to or for whom the fittings are sold let fixed up repaired or removed. Power to supply gas fittings &c. for heating and other purposes.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be. Provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Corporation as the actual owners thereof.

31. Twenty-four hours' notice in writing shall be given to the Corporation by every gas consumer before he shall quit any premises supplied with gas by meter by the Corporation and in default of such notice the consumer so quitting shall be liable to pay to the Corporation the money accruing due in respect of such supply up to the next usual period for ascertaining the register of the meter on such premises or the date from which any subsequent occupier of such premises shall require the Corporation to supply gas to such premises whichever shall first occur. Notice of the effect of this enactment shall be endorsed upon every demand note for gas rent payable to the Corporation. Gas consumers to give notice to Corporation before removing.

32. If a person requiring a supply of gas from the Corporation has previously quitted premises at which gas was supplied to Power to refuse supply to persons in

A.D. 1901.

debt for
other
premises.

Notice to
discontinue
supply of
gas.

Period of
error in
defective
meters.

As to supply
of gas to
Government
establish-
ments.

him by the Corporation without paying to them all gas or meter rents due from him to the Corporation they may refuse to furnish to him a supply of gas until he pays the same.

33. A notice to the Corporation from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office for the time being of the town clerk.

34. In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter. The amount of the allowance to be made to or of the surcharge to be made upon the consumer by the Corporation shall be paid by or to the Corporation to or by the consumer as the case may be and shall be recoverable in the like manner as gas rents are recoverable by the Corporation.

35.—(1) The Corporation may from time to time and if required by the Admiralty or the War Department shall enter into and carry into effect contracts with the Admiralty and the War Department respectively for the supply by the Corporation of gas in bulk for use in His Majesty's naval and military establishments at Devonport.

(2) The price to be paid for the gas so supplied shall be the price from time to time charged by the Corporation to ordinary consumers for private lighting less a discount calculated at a rate of fifteen per cent.

(3) Should either party to any such contract be of opinion at any time or times that it is desirable or equitable that the terms and conditions of such contract either as regards the pressure at which the gas is to be supplied or the rate of discount to be allowed or otherwise should be revised or altered the same shall be settled in default of agreement by an arbitrator to be appointed on the application of either party by the Board of Trade.

(4) In the event of a supply of electricity being provided for the before-mentioned establishments or any of them such supply shall for the purposes of section 29 of the Electric Lighting Act 1882 be deemed to be a supply of electricity authorised by licence order or special Act and nothing in this section contained shall prejudice or

affect the right or powers of the Corporation and the Board of Trade under the said section. A.D. 1901.

36. The proceeds of the sale of any land acquired by the Corporation under the powers of this Act and the fines and premiums received by the Corporation on the lease of any such lands shall be distinguished as capital in the accounts of the Corporation and shall be applied in discharge of any moneys borrowed by the Corporation under the powers of this Act 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. Proceeds of sale of surplus lands.

37. The provisions of this Part of this Act shall not come into force until after the transfer. Suspending operation until after transfer.

PART IV.

FINANCIAL PROVISIONS.

38.—(1) The Corporation may independently of any other borrowing power borrow at interest any sum or sums of money for the purposes and to the amount hereinafter mentioned (that is to say) :— Power to borrow.

- (A) For and incidental to the purchase of the undertaking of the company and defraying the costs charges and expenses incident to such purchase and to the transfer of the undertaking to the Corporation (other than the costs of this Act) and for the payment of the mortgage debt of the Company the moneys necessary for that purpose ;
- (B) For the purchase of lands and the extension and improvement of the gasworks of the Corporation the sum of one hundred thousand pounds ;
- (C) For paying the costs and expenses of this Act as hereinafter provided the sum requisite for that purpose ;
- (D) For commuting the compensation payable by the Corporation to the said Albert Bennee or to any officer of the company the sum requisite for that purpose :

And with the approval of the Local Government Board such further moneys as the Corporation may require for any of the purposes of this Act or otherwise in relation to the gas undertaking of the Corporation.

A.D. 1901.

(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 revenue of the gas undertaking of the Corporation and in addition thereto they may mortgage or charge the district fund and general district rate.

Mode of raising money.

39. 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 :

Provided that the provisions of this Act in regard to the formation of sinking funds shall apply in substitution for the like provisions of the Local Loans Act 1875.

Certain regulations of Public Health Act as to borrowing not to apply.

40. The powers of borrowing money given by this Act 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.

Provisions of Public Health Act as to mortgages to apply.

41. The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say) :—

Section 236 (Form of mortgage);

Section 237 (Register of mortgages);

Section 238 (Transfer of mortgages);

Section 239 (Receiver may be appointed in certain cases).

Periods for payment off of money borrowed.

42. The Corporation shall pay off all moneys borrowed by them under this Act and the mortgage debt of the company owing at the date of transfer within the respective periods (in this Act referred to as "the prescribed periods") following (that is to say) :—

As to moneys borrowed for the purposes (A) (B) and (D) mentioned in the section of this Act the marginal note whereof is "Power to borrow" (except money borrowed for the payment of the mortgage debt of the company) within forty years from the date or dates of the borrowing of the same;

As to the said mortgage debt and moneys borrowed for its repayment within forty years from the transfer;

As to moneys borrowed for the purpose (c) in the said section mentioned within five years from the date or dates of the borrowing of the same;

As to moneys borrowed with the approval of the Local Government Board within such period as they may think fit to sanction. A.D. 1901.

43. The provisions of the Devonport Corporation Act 1900 contained in the following sections (that is to say):— Certain provisions of Act of 1900 to apply.

Section 67 (Mode of payment off of money borrowed);

Section 68 (Power to re-borrow);

Section 69 (Protection of lender from inquiry);

Section 70 (Application of moneys borrowed);

Section 71 (Saving for existing charges);

Section 73 (Annual return to Local Government Board);

Section 76 (Corporation not to regard trusts);

shall subject to the provisions of this Act extend and apply *mutatis mutandis* to and in relation to all moneys borrowed under the powers of this Act and to the repayment of the mortgage debt of the company.

44. The Corporation shall keep separate accounts of their receipts and expenditure for gasworks purposes respectively on capital and revenue account. Separate accounts of gas undertaking.

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

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

Secondly In payment of the interest on the amount of the mortgage debt of the company until redemption;

Thirdly In payment of the interest on moneys borrowed by the Corporation for the purposes of their gas undertaking;

Fourthly In providing the requisite appropriations instalments of principal or sinking fund payments in respect of moneys borrowed for the purposes of their gas undertaking and in respect of the mortgage debt of the company;

Fifthly In providing a reserve fund for their gas undertaking if they think fit by setting aside such money as they from time to time think reasonable and investing the same and the resulting income thereof in statutory securities and accumulating the same at compound interest until the fund so formed amounts to ten thousand pounds which fund shall be applicable from time to time to answer any deficiency at

A.D. 1901.

any time happening in the income of the Corporation from their gas undertaking or to meet any extraordinary claim or demand at any time arising against the Corporation in respect of that undertaking and so that if that fund is at any time reduced it may thereafter be again restored to the sum of ten thousand pounds and so from time to time as often as such reduction happens ;

Lastly In improving and extending (if the Corporation think fit) their gas undertaking :

And the Corporation shall carry to the district fund so much of any balance remaining in any year as may in the opinion of the Corporation not be required for carrying on their gas undertaking and paying the current expenses connected therewith and the annual proceeds of the reserve fund when such fund amounts to ten thousand pounds.

As to deficiency in receipts.

46. Any deficiency in the revenues or receipts of the Corporation on account of their gas 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 Corporation shall be increased so far as may be necessary to recoup to the district fund the amount so made good out of that fund.

Audit of accounts.

47. The accounts of receipts and expenditure of the Corporation under this Act shall be audited examined and published in like manner and with the same consequences as the other accounts of the Corporation are audited examined and published under the Municipal Corporations Act 1882.

Inquiries by Local Government Board.

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

(2) The Corporation shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries referred to in this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

49. 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 out of the district fund and general district rate or out of moneys to be borrowed under this Act. A.D. 1901.
Costs of Act.

A.D. 1901.

The SCHEDULE referred to in the foregoing Act.

GAS LANDS.

Firstly Certain lands in the parish and borough of Devonport bounded on the north by the existing gasworks of the company on the south by Boscawen Place on the east by the Great Western Railway and on the west by Kemyell Place; and

Secondly Certain lands in the parish and borough of Devonport bounded on the north by the church path or public footpath leading from Melville Road to Wolseley Road on the south by the proposed northern boundary line of the intended new street in continuation of St. Levan Road authorised by section 14 of the Devonport Corporation Act 1900 on the east or north-east by Wolseley Road and on the west by hereditaments belonging or reputed to belong to the Right Honourable John Baron St. Levan and now in the occupation of William Henry Hocking.

Thirdly The lands upon which the existing gasworks of the Company are situate being certain lands in the said parish and borough containing 4 acres 1 rood 17 poles or thereabouts and lying between the Great Western Railway and Keyham Road.

Printed by EYRE and SPOTTISWOODE,

FOR

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

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C.; or
OLIVER AND BOYD, EDINBURGH; or
E. PONSONBY, 116, GRAFTON STREET, DUBLIN.