



CHAPTER V.

An Act to empower the Corporation of Appleby to purchase the undertaking of the Appleby Gas Light and Coal Company and to supply gas within the borough and for other purposes. [28th April 1904.] A.D. 1904.

WHEREAS the borough of Appleby in the county of Westmorland is a borough within the meaning of the Local Government Acts and is under the management and control of the mayor aldermen and burgesses of the borough of Appleby (in this Act called "the Corporation"):

And whereas the Appleby Gas Light and Coal Company (in this Act called "the company") was formed in the year one thousand eight hundred and thirty-seven for the purpose of supplying with gas the borough and town of Appleby and the capital of the company consists of four thousand pounds the whole of which has been raised and paid up and the company owes the sum of three hundred and fifty pounds on loan:

And whereas the company have erected gasworks upon the lands described in the Schedule to this Act or some portion thereof and are now supplying gas within the borough:

And whereas it is expedient that the gas supply should be in the hands of the Corporation and that the undertaking of the company should be transferred to and vested in the Corporation in manner provided by this Act and the company have agreed thereto and to the arbitration proceedings being limited as hereinafter appears:

And whereas it is expedient that the Corporation should be empowered to extend and improve the gasworks in order to meet the growing demands of the inhabitants within the limits of this Act:

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And whereas the demand for gas within the limits of supply is increasing and it is necessary and expedient that provisions should be made therefor and estimates have been prepared by the Corporation for the necessary works and for working capital required for carrying on the undertaking and such estimates are as follows (namely) :—

- (A) For improving and enlarging the gasworks and extending the mains and other works of supply the sum of two thousand pounds ;
- (B) For working capital the sum of one thousand pounds :

And whereas it is expedient that the Corporation should be authorised to borrow the sums required for the purposes of this Act and that repayment thereof should be spread over terms of years :

And whereas an absolute majority of the whole number of the Corporation at a meeting held on the eighteenth day of November one thousand nine hundred and three after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the *Kendal Mercury* and *Times* 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 :

And whereas such resolution was published twice in the *Mid-Cumberland and North Westmorland Herald* 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 Corporation at a further special meeting held in pursuance of a similar notice on the thirteenth day of January one thousand nine hundred and four being not less than fourteen days after the deposit of the Bill for this Act in Parliament :

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule of the *Borough Funds Act 1903* have been observed :

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the 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. 1904. —

PART I.

PRELIMINARY.

1. This Act may be cited as the Appleby Corporation Gas Act 1904. 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) :— Incorporation of Acts.

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 except section 38 relating to accounts and section 13 of that Act shall be read as if the words " or any premises " had been inserted after the words " private building "); and

The Gasworks Clauses Act 1871 (except section 7 relating to shareholders section 8 relating to the appointment of a receiver and section 35 relating to accounts &c.) :

And with such exceptions as aforesaid the provisions of the Gasworks Clauses Act 1847 and of the Gasworks Clauses Act 1871 shall extend and apply to the gas undertaking of the Corporation and to any existing works mains or pipes of the company transferred to the Corporation under this Act as if such undertaking had been authorised by and such works mains and pipes constructed laid down and placed by the Corporation under the powers of this Act.

3. In construing this Act the following words and expressions have the meanings hereby assigned to them respectively unless there be something in the subject or context repugnant to such construction (that is to say) :— Interpretation.

" Borough " means the borough of Appleby ;

" Corporation " means the mayor aldermen and burgesses of the borough ;

" Town clerk " means the town clerk of the borough ;

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

“ The company ” means the Appleby Gas Light and Coal Company ;

“ The undertaking of the company ” includes all the gasworks engines mains pipes and machinery lands and buildings plant fixed and movable and all other the real and personal property stock-in-trade assets and effects of whatever nature and all the rights powers and privileges vested in or belonging to or had or enjoyed by the company at the date of the transfer of the undertaking of the company to the Corporation under the provisions of this Act except the books and papers relating exclusively to the shareholders in and the constitution of the company and except the stock-in-trade stores cash balances investments of the company’s reserve fund securities for money book debts rents rates and sums of money due or owing to the company ;

Terms to which meanings are assigned by the Acts incorporated with this Act or any part of this Act or by the Public Health Acts have in this Act the same respective meanings unless varied by this Act or unless there is something in the subject or context repugnant to such construction and in the Acts so incorporated with this Act the expressions “ the undertakers ” “ the promoters of the undertaking ” shall for the purposes of this Act mean the Corporation.

PART II.

TRANSFER OF COMPANY’S UNDERTAKING.

Company to sell their undertaking to Corporation.

4.—(1) Within three months after the passing of this Act the Corporation shall give to the company notice in writing of their intention to purchase the undertaking of the company and thereupon the company shall sell to the Corporation and the Corporation shall purchase the undertaking of the company for such price or consideration being a sum in gross and on and subject to such terms and conditions as may be agreed upon between the company and the Corporation or as failing agreement shall be determined by arbitration in accordance with the provisions of 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. Provided that in determining the said price or consideration no allowance shall be made for compulsory purchase.

(2) In addition to the sums to be paid by the Corporation to the company under the foregoing provisions of this section the Corporation shall pay to the company the actual reasonable and necessary costs and expenses incurred by the company of and in the winding up of the company not exceeding in the whole the sum of fifty pounds.

5. The company and the Corporation may agree upon a single arbitrator and with the object of limiting the expense of the arbitration neither the company nor the Corporation shall be represented at the arbitration by more than one counsel nor shall more than two expert witnesses of whom one may be an accountant be examined on behalf of either the company or the Corporation.

Limiting expense of arbitration.

6.—(1) The purchase shall be completed and the price or consideration and all other sums due from the Corporation to the company shall be paid on such date as may be agreed between the Corporation and the company or failing such agreement on the first day of January or the first day of July next after the expiration of two months from the determination of the amount of the purchase money and if the same shall not then be paid the Corporation shall pay to the company interest thereon as from that date (which is in this Act referred to as "the date of transfer") to the date of actual payment of the said price or consideration and other sums at the rate of four per centum per annum and on payment thereof the undertaking of the company shall by virtue of this Act be vested in the Corporation.

Transfer of undertaking.

(2) 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 two directors of the Company or by the cashier of the Bank of England shall (unless it be proved that such 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.

7. The receipt in writing of two of the directors of the company for such price or any other sum of money to be paid to them by the Corporation shall effectually discharge the Corporation from the sum which in such receipt shall be acknowledged to have been so received and from being concerned to see to the application

Receipt for purchase money.

A.D. 1904. thereof and from being answerable or accountable for the loss misapplication 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 in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Corporation by the cashier of the said bank for the money which shall have the same effect as the receipt of the said two directors.

Pending actions.

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

Contracts of company to be binding upon Corporation.

9. Subject to the provisions of the sections of this Act of which the marginal notes are "Company to carry on undertaking till transfer" and "Company's debts to be paid and received by company" all purchases sales conveyances grants assurances deeds contracts bonds and agreements entered into or made and subsisting at the date of transfer and then in force shall be as binding and of as full force and effect in every respect against or in favour of the Corporation and may be enforced as fully and effectually as if instead of the company the Corporation had been a party thereto.

Company's debts to be paid and received by company.

10. All debentures mortgages obligations debts and liabilities of the company existing at the date of transfer shall be paid and satisfied by the company but subject as between the Corporation and the company to the section of this Act the marginal note whereof is "Company to carry on undertaking till transfer."

Books to remain evidence.

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

in evidence in respect of the same and the like matter for or against the Corporation. A.D. 1904.

12. 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 without the previous consent of the Corporation under the hand of the town clerk 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 and any expenditure incurred by the company on capital account prior to the transfer with such consent of the Corporation as aforesaid shall subject to agreement or the award of the arbitrator be repaid to the company by the Corporation on the date of transfer. Company to carry on undertaking till transfer.

13. The Corporation shall take over the book debts rents rates and sums of money due or owing to the company and the loose stores coal and meters in stock belonging to the company at the date of transfer at a valuation and all rents rates profits and outgoings current at the date of transfer shall so far as may be necessary be apportioned between the company and the Corporation. Such valuation and apportionment failing agreement shall be made by a valuer to be agreed upon between the Corporation and the company or in default of agreement nominated by the Board of Trade on the application of either party. Coal and stores.

14.—(1) From and after the date of transfer the company shall subsist only for the purpose of distributing its assets and for winding up the affairs of the company and carrying into effect the purposes of this Act so far as they relate to the company and the directors of the company who are in office at the date of transfer and the survivors and survivor of them shall continue without re-election to hold the office of directors of the company and they or a majority of them shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes of this section and as soon as possible after the date of transfer the directors of the company shall proceed to wind up the affairs of the company and shall pay and distribute its assets to and among the several persons who at the date of transfer are the registered shareholders of the company or their respective executors administrators and assigns equally in proportion to the amount of the shares standing in their respective names in the books of the company at the date of transfer. Winding up of company.

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(2) For the purposes of any distribution under this section the several persons whose names at the date of the passing of this Act are entered on the register of shareholders of the company as holders of its shares shall unless the contrary be proved to the satisfaction of the directors be considered to be the 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 such person who shall be an idiot or lunatic or a minor shall be an effectual discharge to the company and to the directors thereof for the moneys therein expressed to be received and shall exonerate them from any obligation affecting the shares in respect whereof that money is paid.

(3) The transfer registers of the company shall be closed from the date of transfer and any transfer of shares which is not duly registered in the register of transfers of the company prior to the date of transfer shall as between the company and the directors and the party claiming under the same be of no effect.

Dissolution
of company.

15. If after six months from the date of transfer or such longer period thereafter as may be necessary having regard to the provisions of the section of this Act the marginal note whereof is "Company to carry on undertaking till transfer" the directors of the company from any cause are unable to obtain a good discharge within the meaning of section 14 of this Act for any sums of money which shall have become distributable under that section they shall apply to the Board of Trade under section 15 of the Companies (Winding-up) Act 1890 and the Board of Trade may grant a receivable order to pay the said sums into the Companies Liquidation Account at the Bank of England. The directors shall be entitled to the prescribed certificate of receipt mentioned in (3) of the last-mentioned section for the moneys so paid and that certificate shall be an effectual discharge to them in respect thereof. Any sums so paid in shall be dealt with as provided by the said Act. As from the date of the said certificate of receipt the affairs of the company shall be deemed to be fully wound up and thereupon the company shall be by virtue of this Act dissolved.

PART III.

SUPPLY OF GAS.

Gas limits
and applica-
tion of Act

16. The limits of the Corporation for the supply of gas (in this Act referred to as "the gas limits") shall be the borough of

Appleby in the county of Westmorland and the provisions of this part of this Act shall not come into operation until the transfer of the undertaking of the company to the Corporation. A.D. 1904.

17. Subject to the provisions of this Act the Corporation may from time to time maintain continue alter improve enlarge extend and renew or discontinue the existing gasworks upon the lands described in the Schedule to this Act and on those lands or any part or parts thereof construct erect lay down make maintain alter improve enlarge extend and renew or discontinue additional gasworks and works for the manufacture conversion utilisation storage and distribution of materials used in or residual products resulting from the manufacture of gas and may also provide construct lay down maintain alter improve enlarge extend and renew all necessary retorts scrubbers condensers exhausters gasometers receivers drains sewers mains pipes meters lamps lamp-posts burners stop-cocks machinery and other works and apparatus and conveniences and may do all such acts as they may think proper for making and storing gas and for supplying gas and may make store and supply gas accordingly and may manufacture sell provide supply and deal in lime coke tar pitch asphaltum ammoniacal liquor oil and all other products or residuals of any materials employed in or resulting from the manufacture of gas. Power as to construction and maintenance of gas works.

18. The Corporation may purchase take hold and use patent rights or licences or authorities (not being exclusive) under any letters patent for the use of any invention relative to the manufacture conversion utilisation or distribution of gas and such materials and residual products as hereinbefore mentioned. Power to hold licences under letters patent.

19. The Corporation may upon the application of the owner or occupier of any premises abutting on or being erected in any street or road laid out or made but not dedicated to public use supply such premises with gas and may lay and take up alter relay or renew in across or along such street or road such pipes and other works as may be requisite or proper for furnishing such supply and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid so far as they are applicable for the purposes of this section shall extend and apply to and for the purposes hereof. Power to lay pipes in streets not dedicated to public use.

20. The Corporation may lay down place repair alter remove and renew mains pipes and culverts within the limits of this Act for the purpose of procuring conducting or disposing of any oil or other Power to lay down and use pipes for ancillary purposes.

A.D. 1904. — materials used by them in or resulting from any manufacture of gas or any residual products thereof or for any purpose connected with their business and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid shall so far as applicable extend and apply to the laying down and placing repairing altering or removing and protection of such mains pipes and culverts.

Differences with railway and other companies.

21. If any difference arises between the Corporation and any railway canal or other company whose lands or works the Corporation have power to cross under the authority of this Act as to the mode of laying down repairing altering or enlarging their mains pipes or other works or the facilities to be afforded for the same such difference shall be settled by an engineer to be appointed by the Board of Trade at the request of either party.

Limiting price of gas.

22. 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 five shillings per one thousand cubic feet.

Discounts.

23. The Corporation may if they think fit allow discounts or rebates on the amounts due in respect of gas rents in consideration of prompt payment of such charges or of large consumption upon such scale and subject to such conditions and regulations as the Corporation may prescribe Provided that notice of the effect of this enactment be endorsed on every demand note in respect of such charges and that such discounts or rebates shall be of equal amount under like circumstances to all consumers of gas and shall not exceed in the case of discounts for prompt payment ten per centum and in the case of discounts for large consumption fifteen per centum.

Pressure of gas.

24. All gas supplied by the Corporation to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six-tenths of an inch and from sunset to midnight not less than eight-tenths of an inch in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer and any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment test the pressure at which the gas is supplied and may for that purpose open any street road passage or place vested in or under the control of any local or road authority and the provisions of the Gasworks Clauses Act 1871 with reference

to testing of gas and to penalties shall mutatis mutandis apply to such testing of pressure and two hours' previous notice shall be given to the Corporation of the time and place at which such testing shall be conducted. A.D. 1904.
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25. The prescribed number of candles shall be not less than fourteen. Quality of gas.

26. Within six months from the date of transfer a testing place shall be provided at some convenient part of the gasworks of the Corporation or within two hundred yards from any part thereof or at the offices of the Corporation. Testing place.

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

28. No penalty shall be incurred by the Corporation for neglect or refusal to supply gas for insufficiency of pressure defect in illuminating power or for excess of impurity in the gas supplied by them in any case in respect of which the court having cognizance of the case is of opinion that such neglect refusal insufficiency defect or excess was caused by an unavoidable cause or accident or was of so slight or unimportant a character as not materially to have affected the value of the supply. Penalty not to be incurred in certain cases.

29. In order to enable the Corporation to insure a satisfactory supply of gas to their consumers the following provisions shall have effect:— As to construction and placing of pipes between mains and meters.

- (1) The Corporation may specify the size and material of the pipes with the fittings thereof which are to be laid either in the first instance or on the occasion of any renewal by the consumer between the mains of the Corporation and the meter and (so far as the same are intended to be covered over) on the premises of the consumer:
- (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 district and a copy thereof shall be kept exhibited in the office of the Corporation:

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- (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 meter of the consumer shall be placed as near as reasonably practicable to the main of the Corporation 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 said 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 specification of the Corporation 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.

Anti-fluctuators for gas engines.

30. Every consumer of gas supplied by the Corporation who uses a gas engine shall if required to do so by the Corporation use an anti-fluctuator and shall at all times at his own expense keep such anti-fluctuator in proper order and if any consumer shall make default in complying with the provisions of this section the Corporation may cease to supply him with gas The Corporation shall have access to and be at liberty to take off remove test inspect and replace any such anti-fluctuator at all reasonable times such taking off removal testing inspecting and replacing to be done at the expense of the Corporation if the anti-fluctuator be found in proper order but otherwise at the expense of such consumer.

31.—(1) The Corporation may purchase provide supply sell let for hire or otherwise deal in fix repair and remove (but shall not manufacture) gas meters and fittings engines stoves grillers ranges pipes and other fittings and apparatus of all kinds (all of which are in this section hereinafter referred to as “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.

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Power to supply gas apparatus and engines for heating motive 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 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 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.

32. Twenty-four hours’ notice in writing shall be given to the Corporation at their gas office 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 on every demand note for gas rent.

Gas consumers to give notice to Corporation before removing.

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 offices of the Corporation.

Notice of discontinuance.

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

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

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Period of errors in defective meters.

35. In the event of any meter used by a consumer of gas being tested in the 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 and 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 summarily as a civil debt.

Supply of gas in bulk.

36. The Corporation may contract with any local authority company corporation or person beyond the gas limits (but only with the consent in writing of the local authority of and of any company authorised by special Act or Provisional Order confirmed by Parliament to supply gas within the district within which the supply is to be given) for the supply to them respectively of gas in bulk upon such terms and conditions and for such periods not exceeding seven years as shall be agreed upon. For the purpose of affording a supply of gas under this section outside the gas limits the Corporation may with the consent in writing of the road authority and subject to such conditions as such road authority may prescribe exercise the powers of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying or repairing pipes and other works within the district of the road authority so consenting.

PART IV.

FINANCIAL.

Power to borrow.

37. The Corporation may from time to time borrow at interest—

On the security of the revenue of their gas undertaking and of the district fund and general district rate—

(1) For the purchase of the undertaking of the company and for paying any sums payable by the Corporation to the company under this Act and for defraying the costs and expenses incident to such purchase and to the transfer of the undertaking to the Corporation (other than the costs of this Act) such sum (in this Act referred to as “the purchase price”) as may be required;

(2) For the extension and improvement of the gasworks and otherwise in connection with their gas undertaking the sum of two thousand pounds;

(3) For working capital one thousand pounds ;

(4) For payment of the costs charges and expenses referred to in the section of this Act whereof the marginal note is "Costs of Act" such sum as shall be ascertained as in that section provided :

Provided always that in case further moneys may be required for any of the aforesaid purposes the Local Government Board may from time to time at the request of the Corporation authorise them to borrow such further sums for all or any of such purposes as the Local Government Board may from time to time think fit and the provisions of this Act shall mutatis mutandis apply to the further sums so borrowed.

In calculating the amount which the Corporation may borrow under the provisions of any other enactment the amount which the Corporation may borrow under or for the purposes of this Act shall not be reckoned and the power of the Corporation of borrowing and reborrowing for the purposes of this Act shall not be in any way restricted by any of the provisions or regulations of the Public Health Acts.

38. The provisions of sections 236 237 238 and 239 of the Public Health Act 1875 with respect to mortgages to be executed by a local authority shall apply in the case of all mortgages granted by the Corporation under this Act as if they were with necessary modifications re-enacted in this Act.

Provisions as to mortgages.

39. A person lending money to the Corporation shall not be bound to inquire as to the observance by them 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.

Protection of lenders from inquiry.

40. All moneys borrowed by the Corporation under the authority of this Act shall be paid off within the periods hereinafter respectively mentioned (in this Act referred to as "the prescribed period") with respect to moneys borrowed for the following purposes respectively (that is to say) :—

As to repayment of borrowed money

- (1) For payment of the purchase price forty years from the date or dates of borrowing the same ;
- (2) For extensions and improvements thirty years from the date or dates of borrowing the same ;
- (3) For working capital ten years from the date or dates of borrowing the same ;
- (4) For costs five years from the passing of this Act :

A.D. 1904. And with respect to moneys borrowed by the Corporation under the authority of this Act with the consent of the Local Government Board within such term not exceeding sixty years as the Local Government Board may prescribe.

Mode of payment off of money borrowed.

41. 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 those methods and partly by another or others of them and the payment of the first instalment or the first payment to the sinking fund shall be made within one year from the date of borrowing the sum in respect of which the payment is made.

Sinking fund.

42. The Corporation in case they borrow any moneys on mortgage under this Act repayable by means of a sinking fund shall subject to the provisions of the section of this Act of which the marginal note is "As to repayment of borrowed money" within twelve months after borrowing the same and thenceforth annually on the same or some earlier day set apart as a sinking fund for the payment of such moneys out of the funds and rates on the security of which such moneys shall have been borrowed such equal annual sum or sums as will with accumulations by way of compound interest after a rate not exceeding three pounds per centum per annum be sufficient to pay within such a period as they may think fit (not exceeding the prescribed period) the amount of the principal moneys so borrowed. All sums so set apart and the income thereof shall from time to time be invested in any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money (except any security of the Corporation) and any mortgage bond debenture stock or other security authorised by or under any Act of Parliament passed or to be passed of any other local authority as defined by section 34 of the Local Loans Act 1875 (other than the Corporation) except annuities rentcharges and securities payable to bearer.

If and as often as the income derived from such investments is not equal to the income which would be derived therefrom at the rate per centum per annum on which the equal annual payments to the sinking fund are based any deficiency shall be made good out of the funds and rates which are liable for the equal annual payments and if and as often as the income derived from such investments is in excess of the income which would be derived therefrom at the rate per centum per annum on which the equal

annual payments to the sinking fund are based any such excess may be applied as part of such equal annual payments. A.D. 1904.

The Corporation may at any time apply the whole or any part of the sinking fund in or towards the repayment or payment off of moneys for which such sinking fund is set aside in such order and manner as they deem proper. Provided that in such case they pay into the sinking fund in each year afterwards and accumulate as hereinbefore prescribed until the whole of such moneys are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum per annum on which the equal annual payments to the sinking fund are based. Provided also that whenever and so long as the securities in which such sinking fund is invested shall be not less in value at the market price of the day than the principal moneys then outstanding and to be paid off by means of such fund the Corporation may in lieu of investing the said yearly income apply the same in payment of interest on such principal moneys and may during such periods discontinue the payments to such sinking fund of the yearly sums required to be paid thereto.

43.—(1) The town clerk shall within twenty-one days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March 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 in respect of any money raised thereunder and at any other time when the Local Government Board may require such a return to be made transmit to the Local Government Board a return in such form as may be prescribed by that Board and if required by that Board verified by statutory declaration of such town clerk 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 or of the sums 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 his failing to make such return the town clerk shall for each offence be liable to a penalty

Return re-
specting
sinking fund
to Local
Government
Board.

A.D. 1904. — not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

(2) If it appears 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 for any sinking fund (whether such instalment or annual payment or sum is required by this Act or by the Local Government Board in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes 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 has been made shall be paid or applied as in such order mentioned and any such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

Power to
reborrow.

44. The Corporation shall except as hereinafter provided have power to reborrow for the purpose of paying off any moneys borrowed or reborrowed under this Act which have not been repaid and are intended to be forthwith repaid or in respect of any moneys which have been repaid by the temporary application of funds at the disposal of the Corporation within twelve months before the reborrowing and which at the time of the repayment it was intended to reborrow Provided that the Corporation shall not have power to reborrow for the purpose of paying off any moneys repaid by instalments or annual payments or by means of a sinking fund or out of moneys derived from the sale of land or out of any capital moneys properly applicable to the purpose of such repayment other than moneys borrowed for that purpose Provided also that any moneys reborrowed shall be deemed to form the same loan as the money for the repayment of which the reborrowing has been made and shall be repaid within the prescribed period.

Power to
borrow under
Local Loans
Act 1875.

45. The Corporation if they think fit may borrow the moneys which they are by this Act authorised to borrow or any part thereof under the powers and subject to the provisions of the Local Loans Act 1875 by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another,

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

Every such loan shall be discharged within the prescribed period.

The section of this Act of which the marginal note is "Sinking fund" shall apply to any sinking fund provided by the Corporation for the repayment of any moneys borrowed by them under the Local Loans Act 1875 in lieu of the provisions of section 15 of that Act.

46. 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 re-
venue.

Firstly In payment of the working and establishment expenses and cost of maintenance of their gas undertaking:

Secondly In payment of the interest on moneys borrowed by the Corporation for the purposes of their gas undertaking:

Thirdly In providing the requisite appropriations instalments or payments to sinking funds in respect of moneys borrowed by the Corporation as aforesaid:

Fourthly—(1) In providing if they think fit a renewal fund to be called "the Gasworks renewal fund" for the renewal and repair of their gasworks mains and pipes by setting aside such moneys as they from time to time think reasonable which fund shall be applicable as occasion may require for such renewals and repair provided that the said fund shall at no time exceed the sum of two thousand pounds; and

(2) In providing if they think fit a reserve fund to be called "the gasworks reserve fund" for their gas undertaking by setting aside such money as they from time to time think reasonable provided that such fund at no time exceeds one tenth of the amount of the capital account of the gas undertaking of the Corporation for the time being which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of

A.D. 1904

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 ;

* All moneys carried to the gasworks renewal fund or the gasworks reserve fund shall with the resulting income thereof be invested in securities in which the Corporation are by this Act authorised to invest sinking funds formed under this Act Provided that if either of such funds is at any time reduced it may thereafter be again restored to the maximum amount prescribed by this section and so from time to time as often as such reduction happens :

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

And the Corporation shall carry to the district fund any balance remaining in any year after retaining or setting aside such a sum as may in the opinion of the Corporation be required for carrying on their gas undertaking and paying the current expenses connected therewith and shall also carry to the district fund the annual proceeds of the renewal and reserve funds when the respective funds amount to the maximum amount hereinbefore provided.

As to deficiency in receipts.

47. Any deficiency in the revenues or receipts of the Corporation on account of their gas undertaking shall be 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.

Application of money borrowed.

48. All money borrowed under the provisions of this Act shall be appropriated to purposes for which it is authorised to be borrowed and shall except money borrowed for working capital be expended exclusively on works or objects on which capital may properly be expended.

Corporation not to regard trusts.

49. The Corporation shall not be bound to see to the execution of any trust whether express or implied or constructive to which any loan or security for loan given or adopted under the authority of this Act 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 shall from time to time be a 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 on their register and the Corporation shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application of any such money. A.D. 1904.

50. Any expenses of the Corporation in the execution of this Act with respect to which no other provision is made may be defrayed by the Corporation out of the district fund and general district rate. Expenses of execution of Act.

PART V.

MISCELLANEOUS.

51. Subject to the provisions of the section of this Act the marginal note of which is "Appropriation of lands for purposes of Act" the Corporation may erect and maintain dwelling-houses upon the lands for the time being belonging to or leased by them for the purposes of their gas undertaking for persons employed by them for the purposes of their gas undertaking. Dwelling-houses for employees.

52. The Corporation may subject to the sanction of the Local Government Board and under such conditions as they may prescribe from time to time appropriate and use for any of the purposes of this Act any lands for the time being vested in them which are not wanted for the purposes for which such lands were originally acquired and may purchase take and hold by agreement in addition to the lands described in the Schedule to this Act any lands and hereditaments not exceeding five acres or any easement right or privilege therein thereunder thereover or thereupon (not being an easement right or privilege of water in which persons other than the grantors are interested) which shall be deemed necessary by the Corporation. But nothing in this section shall authorise the Corporation to create or knowingly 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. Appropriation of lands for purposes of Act.

53. Subject to the provisions of the Lands Clauses Consolidation Act 1845 the Corporation may retain hold and use for such time as they may think fit and may from time to time sell lease exchange or otherwise dispose of in such manner and for such Power to retain sell &c. lands.

A.D. 1904. — consideration and purpose and on such terms and conditions as they think fit and either in consideration of a gross sum or of an annual rent or of any payment in any other form any lands or interest in lands acquired by them under this Act and may sell exchange or dispose of any rents received on any sale exchange lease or other disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

Application
of moneys
from sale &c.
of lands.

54. The Corporation shall apply all money received by them in respect of any sales exchanges or disposition of lands under this Act or by way of fine or premium on any lease of any such lands in or towards paying off moneys borrowed and for the time being owing under this Act or if there shall be no moneys owing under this Act such proceeds shall be applied in or towards paying off any other moneys for the time being owing by the Corporation Provided that such proceeds when used to pay off the borrowed moneys shall not be applicable to the payment of instalments appropriations or annual repayments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

Inquiries by
Local Go-
vernment
Board.

55.—(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.

Power to
contribute
towards
bands.

56. The Corporation may pay or contribute towards the payment of bands of music for the borough provided that the amount of such payments or contributions do not in any year exceed a sum equal to a rate of one penny in the pound on the assessable value of the borough for the purposes of the general district rate

The Corporation may in any park garden or pleasure ground or other place enclose an area within which such bands shall play and make regulations as to the time and place for the playing of the bands the payments to be made for admission within the said enclosure and for securing good and orderly conduct during the playing of the bands. A.D. 1904.

57. The Corporation may place or authorise any person or persons to place seats shelters or chairs in any street public park garden or pleasure ground or other public place for the use of the public and may if they think fit charge or allow such person or persons to charge a reasonable sum for the use of chairs and may make byelaws for regulating the use of seats shelters and chairs and for preventing injury or damage thereto. Chairs and seats for public use.

58.—(1) From and after the passing of a resolution in that behalf by the Corporation the powers and duties of any assistant overseer or collector of poor rates appointed for the parishes of Appleby and Bongate or either of them by the guardians of the East Ward Union or the vestries of the said parishes or either of them and the power of the guardians and of any and every other authority to appoint collectors of poor rates in respect of those parishes shall cease. As to collection of local rates.

(2) Any assistant overseer appointed as aforesaid of or for the said parishes of Appleby and Bongate or either of them who was in office before the passing of the resolution referred to in the preceding subsection of this section and for whom no equivalent office shall be found by the Corporation and any collector of poor rates for the said parishes or either of them for whom no equivalent employment shall be found by the Corporation shall be deemed to be an officer entitled to compensation within the meaning of section 120 of the Local Government Act 1888 and that section shall with the necessary modifications and with the substitution of "the Local Government Board" for "the Treasury" and "the Corporation" for "the county council" apply accordingly Provided that the non-acceptance of any office offered shall not be a bar to the right of any officer to compensation and any compensation payable by the Corporation under this subsection shall be paid out of the borough fund and borough rate Provided also that any officer to whom compensation shall be awarded in pursuance of this section shall not be deemed to have become entitled to a superannuation allowance under section 2 of the Poor Law Officers Superannuation Act 1896.

A.D. 1904.

Form of
rate.

59. The Local Government Board may on the application of the Corporation prescribe amend and vary a form of rate to include the poor rate general district rate and other rates leviable by the Corporation and they may in respect of such rates prescribe a form of demand note receipt and other necessary documents and any form so prescribed shall be sufficient in law.

Evidence of
appoint-
ments.

60. Where in any legal proceedings taken by or on behalf of the Corporation whether under this Act or under any general or local Act passed before or after this Act it becomes necessary to prove the appointment or authority of any officer servant solicitor or agent of the Corporation or to prove any resolution of the Corporation or of any committee of the Corporation a certificate of such appointment authority or resolution purporting to be authenticated by the signature of the chairman or clerk shall be *prima facie* evidence of such appointment authority or resolution without further proof of the holding of any meeting or the production of any minute book or other record or document.

Recovery of
demands
under 100%.

61. Proceedings for the recovery of any demand not exceeding one hundred pounds made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in the county court.

Application
of penalties.

62. All penalties recovered under this Act or under any byelaw thereunder shall except in the case of penalties recovered against the Corporation be paid to the borough treasurer of the Corporation and be by him carried to the credit of the gas undertaking.

Costs of Act.

63. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act (including the costs charges and expenses preliminary to and of and connected with the compliance with the provisions of the Borough Funds Acts 1872 and 1903 with respect to the Bill for this Act) or otherwise in relation thereto as taxed and ascertained 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 borrowed under the powers of this Act.

The SCHEDULE referred to in the foregoing Act.

A.D. 1904.

GAS LANDS.

A piece or parcel of land with the dwelling-house buildings erections and works thereon and therein bounded on or towards the south-east by the public street known as Chapel Street and on all other sides by property of the Corporation and being the existing gasworks of the Company.

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