

[18 & 19 GEO. 5.] *Bournemouth Gas* [Ch. lxxxvi.]
 and Water Act, 1928.



CHAPTER lxxxvi.

An Act to extend the limits for the supply of gas A.D. 1928.
of the Bournemouth Gas and Water Company
to increase the capital and borrowing powers of
the Company to authorise and confirm the con-
struction of certain works and for other purposes.
[3rd August 1928.]

WHEREAS by the Bournemouth Gas and Water
Act 1873 the Bournemouth Gas and Water Com-
pany Limited were dissolved and the shareholders therein
with other persons were re-incorporated by the name of
the Bournemouth Gas and Water Company (hereinafter
referred to as "the Company") and were authorised to
supply gas and water within the parishes and places in
the counties of Dorset and Southampton specified in that
Act :

And whereas the limits for the supply by the Company
of gas and water respectively were extended and further
powers were conferred upon the Company by subsequent
Acts and Orders :

And whereas it is expedient that the limits for the
supply by the Company of gas should be further extended
as provided by this Act :

And whereas the demand for gas and water within
the said respective limits of supply is increasing and it
is expedient that for the purpose of enabling the Company
to meet such demand they should be authorised to raise

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A.D. 1928. additional moneys by the creation and issue of capital
— and by borrowing on mortgage or by the creation and
 issue of debenture stock and that their borrowing powers
 in respect of their capital as now authorised should be
 increased :

 And whereas with a view to obviating any doubt as
 to the right of the Company to maintain and use certain
 existing works constructed by them and required for the
 purposes of their water undertaking it is expedient that
 the construction of the said works should be confirmed
 and that such further powers with reference thereto as
 are contained in this Act should be conferred upon the
 Company :

 And whereas it is expedient that the Company
 should be empowered to construct the additional water-
 works described in this Act :

 And whereas it is expedient that the other powers
 and provisions contained in this Act should be conferred
 and enacted :

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

 And whereas a plan and sections showing the lines
 situations and levels of the works authorised by this
 Act and a book of reference to the said plan containing
 the names of the owners and lessees or reputed owners
 and lessees and of the occupiers of the lands through
 which the said works may be constructed have been
 deposited with the clerk of the peace for the county of
 Dorset and are in this Act respectively referred to as the
 deposited plan sections and book of reference :

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

Short and
collective
titles.

 1. This Act may be cited as the Bournemouth Gas
 and Water Act 1928 and the Bournemouth Gas and
 Water Acts and Orders 1873 to 1921 and the Bournemouth
 Gas (Charges) Order 1921 and this Act may be cited
 together as the Bournemouth Gas and Water Acts and
 Orders 1873 to 1928.

2.—(1) The following enactments so far as the same are applicable to the purposes and are not inconsistent with the provisions of the Bournemouth Gas and Water Acts and Orders 1873 to 1928 are hereby incorporated with this Act (namely):—

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 —
 Incorporation of Acts.

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

The Gasworks Clauses Act 1847;

The Gasworks Clauses Act 1871;

The Waterworks Clauses Act 1847; and

The Waterworks Clauses Act 1863.

(2) In the application to the Company of the Gasworks Clauses Act 1847 section 13 shall be read as if the words “or any premises” were inserted after the words “private building” and as if the words “Provided that every such contract entered into by the undertakers shall be alike in terms and amount to all consumers of gas supplied in like circumstances and for the same purpose” were added at the end of that section.

3. The provisions of the Companies Clauses Consolidation Act 1845 (except the provisions thereof with respect to the conversion of borrowed money into capital) and Parts I II and III of the Companies Clauses Act 1863 as amended by subsequent Acts shall so far as the same are respectively applicable and except so far as the same may be varied by or inconsistent with the provisions of the Bournemouth Gas and Water Acts and Orders 1873 to 1928 apply to any ordinary or preference shares or stock or debenture stock to be issued under the provisions of this Act and to the proprietors thereof.

Application of certain provisions of Companies Clauses Acts.

4. In this Act—

The several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated with this Act shall have the same respective meanings unless there be something in the subject or context repugnant to such construction;

Interpretation.

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- “The Company” means the Bournemouth Gas and Water Company;
- “The directors” means the directors of the Company for the time being holding office as such;
- “The water undertaking” means the water undertaking of the Company authorised by the Bournemouth Gas and Water Acts and Orders 1873 to 1928;
- “The undertaking” means the water undertaking and the gas undertaking of the Company authorised by the Bournemouth Gas and Water Acts and Orders 1873 to 1928;
- “The new waterworks” means the works authorised by this Act and described in the section thereof of which the marginal note is “Power to make waterworks”;
- “The confirmed waterworks” means the works described in the section of this Act of which the marginal note is “Confirming construction of existing waterworks and acquisition of lands”;
- “The gas limits” means the limits within which the Company are for the time being authorised to supply gas;
- “The water limits” means the limits within which the Company are for the time being authorised to supply water;
- “The limits of supply” means in relation to the supply of gas the gas limits and in relation to the supply of water the water limits;
- “The added gas limits” means the area described in the schedule to this Act and referred to in the section of this Act of which the marginal note is “Extension of limits of supply of gas”;
- “Five per centum capital” means the capital of the Company in shares of ten pounds each bearing a standard rate of dividend of five per centum per annum;
- “The Act of 1896” means the Bournemouth Gas and Water Act 1896;
- “The Act of 1913” means the Bournemouth Gas and Water Act 1913;

“The Act of 1919” means the Bournemouth Gas and Water Act 1919; A.D. 1928. —

“The Order of 1921” means the Bournemouth Gas (Charges) Order 1921.

5.—(1) From and after the passing of this Act the limits of the Company for the supply of gas shall extend to and include in addition to the gas limits as existing immediately before the passing of this Act the area described in the schedule to this Act.

(2) Subject to the provisions of this Act the Company shall have and may exercise within the added gas limits all and the like powers rights privileges and authorities for and in relation to the supply of gas and be subject to all and the like duties and obligations in respect thereof as they now have and are subject to within the gas limits as existing immediately before the passing of this Act.

6. The provisions of section 33 (For protection of London and South Western Railway Company) of the Act of 1913 shall extend and apply to and with reference to the exercise by the Company of the powers conferred upon them by this Act and the execution of any works in pursuance of those powers as if the Southern Railway Company had been referred to therein instead of the London and South Western Railway Company and as if the Southern Railway had been referred to therein instead of the South Western Railway.

7. The provisions of section 33 (For protection of London and South Western Railway Company) of the Act of 1913 shall extend and apply to and with reference to the exercise by the Company of the powers conferred upon them by this Act and the execution of any works in pursuance of those powers as if the Southern Railway Company and the London Midland and Scottish Railway Company as joint owners of the Somerset and Dorset Railway had been referred to therein instead of the London and South Western Railway Company and as if the said Somerset and Dorset Railway had been referred to therein instead of the South Western Railway.

8. If after the expiration of five years from the passing of this Act the Company have not laid down mains for the supply of gas in any part of the added gas

On failure of Company other undertakers may

A.D. 1928. limits the local authority of any district in those limits
—
apply for or any company or person may apply for an Act of
powers. Parliament or Special Order for the purpose of providing
such a supply and for the repeal of the powers of the
Company in that behalf.

Additional 9. The Company may from time to time raise
capital. additional capital not exceeding in the whole three
hundred and fifty thousand pounds by the creation and
issue of new five per centum capital and new ordinary
shares or stock and new preference shares or stock or
wholly or partially by one or more of those modes
respectively but the Company shall not issue any share
under the authority of this Act of less nominal value
than ten pounds nor shall any such share vest in the
person accepting the same unless and until a sum not
being less than one-fifth of the amount of such share
shall have been paid in respect thereof Provided that
it shall not be lawful for the Company to create and
issue under the powers of this Act any greater nominal
amount of capital than shall be sufficient to produce
including any premium which may be obtained on the
sale thereof the sum of three hundred and fifty thousand
pounds.

Dividends 10.—(1) The profits of the Company which may
on addi- be divided among the holders of the additional five per
tional centum capital and ordinary and preference capital of
capital. the Company authorised by this Act shall not (except
as mentioned in subsection (2) of this section) exceed the
following rates (namely):—

On any such preference capital such rate (not
exceeding the rate of six per centum per annum)
as shall be specified in the resolution creating
such capital;

On the five per centum capital the rate of five per
centum per annum;

On any such capital issued as new ordinary shares or
stock the rate of seven per centum per annum.

(2) Notwithstanding the foregoing provisions of this
section the rate of dividend on the five per centum
capital shall be subject to alteration in accordance with
the provisions of section 41 (Price of gas Sliding scale)
of the Act of 1919 as amended by the Order of 1921.

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11.—(1) Section 37 (New shares or stock to be sold by auction or tender) of the Act of 1913 shall be read and have effect as if the words “fourteen days” were substituted for the words “twenty-eight days” in paragraph (a) of subsection (2) of that section.

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As to issue
of shares
or stock by
auction or
tender.

(2) All shares or stock created under the foregoing provisions of this Act shall except as by this Act otherwise expressly provided be issued in accordance with the provisions of the said section 37 as amended by this section and that section as so amended shall apply to such issue as if the shares or stock to be issued were shares or stock created under the powers of the Act of 1913.

12. It shall be lawful for the Company with the consent of the Board of Trade and subject to such conditions as the Board may think fit to impose to offer for subscription by the public any five per centum capital or ordinary or preference shares or stock which they are by the Bournemouth Gas and Water Acts and Orders 1873 to 1928 or may hereafter be authorised to issue and upon any such offer to pay a commission not exceeding five per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such shares or stock or procuring or agreeing to procure subscriptions whether absolute or conditional for any such shares or stock:

Power to
offer shares
or stock for
subscription.

Provided that—

(a) The payment of the commission and the amount or rate per centum of the commission paid or agreed to be paid shall be disclosed in every prospectus advertisement or other document of the Company inviting subscriptions for such shares or stock;

(b) Any stock or shares so offered as aforesaid shall be issued at as near as may be (and in no case more than five per centum below) the average market price in the month immediately preceding the offer and in order to ascertain such average market price the mean daily quotations recorded in the official published list of the London Stock Exchange shall be taken for the last four completed weeks; and

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(c) Nothing in this section shall affect any power of the Company to pay brokerage.

Power to
borrow.

13.—(1) The Company may subject to the provisions of this Act raise by borrowing on mortgage of the undertaking—

(a) At any time and from time to time after the passing of this Act and without being required to obtain a certificate of a justice under the fortieth section of the Companies Clauses Consolidation Act 1845 any sum or sums not exceeding in the whole (together with the sums already borrowed or deemed to have been borrowed under the powers conferred by the Bournemouth Gas and Water Acts and Orders 1873 to 1921 and outstanding at the passing of this Act) the sum of six hundred and thirty-nine thousand two hundred and fifty-five pounds;

(b) From time to time any sum or sums not exceeding in the whole one-half part of the amount of any moneys (including premiums) for the time being raised after the passing of this Act by the issue of shares or stock. Provided that no such sum as last aforesaid shall be borrowed in respect of any moneys so raised until the Company have proved to a justice of the peace before he gives his certificate under the fortieth section of the Companies Clauses Consolidation Act 1845 that the whole of the shares or stock at the time issued together with the premium (if any) realised on the sale thereof has been fully paid up.

(2) The powers conferred by this section shall be without prejudice to the right of the Company to re-borrow from time to time any amounts which having been raised by borrowing on mortgage or by the creation and issue of redeemable debenture stock are thereafter paid off.

Appoint-
ment of
receiver.

14. Section 34 (Appointment of receiver) of the Act of 1919 is hereby repealed but without prejudice to any appointment heretofore made or to any proceedings pending under the said section at the passing of this Act

The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds. A.D. 1928.

15. Section 49 (Rate of interest on mortgages and debenture stock) of the Act of 1896 as amended by section 44 (Amendment of section 49 of Act of 1896) of the Act of 1919 and the following other provisions of the Act of 1919 shall with any necessary modifications extend and apply to the exercise of the powers of this Act as if the same were re-enacted herein (namely) :— Application of provisions of Acts of 1896 and 1919.

Section 30 (Privileges &c. of holders of additional capital);

Section 31 (Restriction as to votes in respect of preference capital);

Section 35 (Debenture stock);

Section 36 (Issue of redeemable preference capital and debenture stock);

Section 37 (Priority of mortgages and debenture stock over other debts);

Section 38 (Priority of principal moneys secured by existing mortgages and bonds);

Section 39 (Receipt in case of persons not sui juris); and

Subsection (1) of section 40 (Application of money).

16. Subject to the provisions of this Act the Company may in the parish of Hampreston in the rural district of Wimborne and Cranborne in the county of Dorset and in the lines and situations delineated on the deposited plan and upon the lands shown on that plan and described in the deposited book of reference and according to the levels shown on the deposited sections make and maintain the following works (that is to say) :— Power to make water-works.

Work No. 1 A line of pipes with intake commencing in the left bank of the river Stour at a point

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2 chains or thereabouts measured in an easterly direction from the point at which the boundary between the enclosures respectively numbered 1274 and 1275 on the $\frac{1}{2500}$ Ordnance map (second edition 1901) Dorset sheet XXXV. 14 joins the said left bank and terminating by a junction with an existing main of the Company;

Work No. 2 A line of pipes commencing by a junction with the said line of pipes (Work No. 1) and terminating in an existing sump of the Company.

Limits of deviation.

17. Subject to the provisions of this Act the Company may in the construction of the new waterworks deviate laterally from the lines or situations thereof as shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards.

Time for completion of new waterworks.

18. If the new waterworks are not completed within five years from the passing of this Act then at the expiration of that period the powers by this Act granted for the making and construction of the new waterworks or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Power to take water from river Stour.

19. Subject to the provisions of this Act the Company may by means of the new waterworks collect use divert and appropriate for the purposes of the water undertaking the waters of the river Stour and the several feeders or tributaries thereof Provided that the intake forming part of the new waterworks shall consist of a pipe having an internal diameter not exceeding thirty inches.

Confirming construction of existing waterworks and acquisition of lands.

20. The construction by the Company of the works next hereinafter described is hereby sanctioned and confirmed and the Company may maintain and use and from time to time alter improve enlarge extend renew reconstruct or discontinue all or any of the same and may retain hold and use for the purposes of and as part of the water undertaking all or any of the lands referred to in this section which have been acquired or appro-

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said land lastly hereinbefore described together with the filter-beds constructed on that reservoir;

- (5) The reservoir (No. 4) of the Company in the parish of Kinson in the rural district of Poole situate on part of certain lands in that parish belonging to the Company containing 9 acres 1 rood and 3.2 perches or thereabouts and bounded on the south-west by the said Award Road such lands comprising the enclosures numbered 382f and 382g in the said parish of Kinson on the last-mentioned Ordnance map together with the filter-beds constructed on that reservoir;
- (6) The line of pipes of the Company in the parish of Kinson in the said rural district of Poole commencing in the Longham pumping station passing thence in a south-westerly direction into and in a south-westerly and southerly direction along the main road from Poole to Ringwood to the junction therewith of the said Award Road and thence into and terminating in the said existing reservoirs or some or one of them;
- (7) The line of pipes of the Company in the said parish of Kinson commencing in the Longham pumping station passing thence into and in a south-westerly and southerly direction along the said main road from Poole to Ringwood to the junction therewith of the said Award Road and thence along the last-mentioned road into and terminating in the said existing reservoirs or some or one of them;
- (8) The mains buildings works and apparatus in connection with the said reservoirs filters and lines of pipes laid erected or constructed in upon or under the said lands and the said Award Road:

Provided that nothing in this section shall alter or extend the rights of the Company under any grant of an easement for the purposes of the confirmed waterworks.

Subsidiary
works.

21. The Company may upon the land delineated on the deposited plan and upon the lands referred to in the section of this Act of which the marginal note is "Con-

“ firming construction of existing waterworks and acqui- A.D. 1928.
 “ tion of lands ” make and maintain all such buildings
 machinery works and apparatus of whatever character
 as may be necessary or convenient in connection with or
 subsidiary to the new waterworks and the confirmed
 waterworks or any of them but nothing in this section
 shall exonerate the Company from any action indictment
 or other proceedings for nuisance in the event of any
 nuisance being caused or permitted by them.

22. The Company may continue to use the con- As to
 firmed waterworks for collecting diverting and appro- powers of
 priating for the purposes of the water undertaking all abstraction
 such springs streams and waters as are or may be inter- of water by
 cepted by the confirmed waterworks or any works in confirmed
 connection with or subsidiary to the confirmed waterworks waterworks.

or any of them which may be constructed under the
 powers of the section of this Act of which the marginal
 note is “ Subsidiary works.”

23.—(1) Notwithstanding anything contained in this Restrictions
 Act the Company shall not in any period of seven con- on abstrac-
 secutive days (reckoned from midnight to midnight) tion of
 collect divert or appropriate by means of the new water- water from
 works or the Longham pumping station separately or river Stour.

together any greater quantity of water in the aggregate
 than forty-nine million gallons.

(2) The quantity of water collected diverted or
 appropriated by the Company by means of the water-
 works referred to in subsection (1) of this section shall
 be measured by the meters at the date of the passing
 of this Act installed in the works of the Company referred
 to in paragraph (8) of the section of this Act of which
 the marginal note is “ Confirming construction of existing
 waterworks and acquisition of lands ” or any meters
 which may hereafter be substituted therefor and the
 Company shall at all times maintain in correct working
 order to the reasonable satisfaction of the Hampshire
 Rivers Board of Conservators (in this section referred to
 as “ the fishery board ”) the meters for the time being
 installed in the said works and used for the purposes of
 this section.

(3) The meters so for the time being installed and
 used as aforesaid shall be open at all reasonable times
 to the inspection and examination of any duly authorised

A.D. 1928. — representative of the fishery board and the Company shall on or before the fifteenth day of November one thousand nine hundred and twenty-eight and on or before the fifteenth day of every subsequent month send to the fishery board a copy of the register of the said meters showing the quantity of water collected diverted or appropriated by the Company on each day in the preceding calendar month.

(4) (a) In case of any neglect on the part of the Company to maintain the said meters in correct working order as aforesaid they shall for every day on which such neglect is proved to have occurred forfeit and pay to the fishery board (if that board shall sue for and recover the same) a sum of five pounds.

(b) If in consequence of any act neglect or failure on their part the Company shall collect divert or appropriate any greater quantity of water than that prescribed in this section they shall for each and every complete and separate period of seven consecutive days during which such excess quantity of water shall have been collected diverted or appropriated forfeit and pay to the fishery board (if that board shall sue for and recover the same) a sum of twenty pounds.

(c) The fishery board shall have power to sue for and recover the said sums of five pounds and twenty pounds.

(5) The Company shall provide attach and maintain at the opening of the intake comprised in Work No. 1 by this Act authorised a grating of such design as may be approved by the Ministry of Agriculture and Fisheries.

As to
filtration
&c. of
water.

24. No water taken from the river Stour and the several feeders or tributaries thereof under the powers conferred by the section of this Act of which the marginal note is "Power to take water from river Stour" or by means of the Longham pumping station of the Company shall be supplied by the Company for domestic use unless and until satisfactory provision shall have been made for filtering or otherwise purifying the same so as to enable the Company to comply with the provisions of section 35 of the Waterworks Clauses Act 1847 as to the supply of pure and wholesome water for domestic use.

25. Subject to the provisions of this Act the new waterworks and the confirmed waterworks and the lands mentioned in the section of this Act of which the marginal note is "Confirming construction of existing waterworks and acquisition of lands" shall for all purposes whatsoever form part of and be comprised in the undertaking.

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Works to form part of undertaking.

26. The Company may on all or any of the lands for the time being held by them execute for the purposes of or in connection with the water undertaking any such works as are mentioned in section 12 of the Waterworks Clauses Act 1847 (other than wells and works for the taking and intercepting of water) Provided that the Company shall not under the powers of this section create or permit the creation or continuance of any nuisance on any such lands.

As to exercise of powers of section 12 of Waterworks Clauses Act 1847.

27. The Company shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this or in some other Act of Parliament.

Limiting powers of Company of abstracting water.

28. The power of contracting to supply gas or water in bulk contained in section 52 (Power to supply gas or water in bulk) of the Act of 1896 shall extend to contracts for the supply of gas or water in bulk to the Company Provided that except with the consent of the Minister of Health the Company shall not under the powers of this section purchase water in bulk from any party other than a local authority company body or person supplying water under parliamentary authority.

As to supply of gas and water in bulk.

29. As from the passing of this Act section 45 (Power to create a special purposes fund) of the Act of 1913 shall be read and have effect so as to enable the Company if they think fit in any year to appropriate out of their revenue to the fund referred to in that section any sum not exceeding an amount equal to one per centum of the paid-up capital of the Company including premiums in lieu of the sum of five hundred pounds mentioned in that section and so that the maximum amount standing to the credit of the special purposes fund may amount to but shall not at any time exceed an amount equal to one-tenth part of the paid-up capital of the Company including premiums in lieu of the sum of five thousand pounds mentioned in the said section.

Amendment of powers relating to special purposes fund.

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Renewal
fund.

30.—(1) The directors may if they think fit in any year appropriate out of the revenue of the Company as part of the expenditure on revenue account any sum not exceeding an amount equal to one per centum of the paid-up capital of the Company including premiums to a fund to be called “the renewal fund.”

(2) The renewal fund shall be applicable only to meet expenses requisite for the maintenance and renewal of plant and works (other than expenses incurred in the replacement or removal of plant or works) and shall be so applied from time to time for the purpose of equalising so far as may be the annual charge to revenue in respect of such expenses.

(3) The maximum amount standing to the credit of the renewal fund shall not at any time exceed an amount equal to one-twentieth part of the paid-up capital of the Company including premiums.

Anti-fluctu-
ators to be
used with
gas engines.

31.—(1) The Company may by notice in writing require a consumer of gas supplied by them and used for the working of an engine to fix and use an efficient anti-fluctuator in a suitable position upon the premises upon which the engine is in use or to keep any anti-fluctuator fixed and used by the consumer in proper order and repair at all times while in use or to repair renew or replace an anti-fluctuator which is not in proper order or repair.

(2) If the consumer after any such notice as aforesaid fails to fix and use an efficient anti-fluctuator or to keep an anti-fluctuator in proper order and repair or to repair renew or replace an anti-fluctuator which is not in proper order and repair the Company may cease to supply him with gas.

(3) The Company may at all reasonable times demand and shall thereupon have access to any anti-fluctuator fixed upon any premises to which gas is supplied by them and for the purpose of ascertaining whether the anti-fluctuator is efficient and in proper order and repair may take off remove test inspect and replace the anti-fluctuator such taking off removing testing inspecting and replacing to be done at the expense of the Company if the anti-fluctuator be found efficient and in proper order but otherwise at the expense of the consumer.

(4) For the purposes of this section an “anti-fluctuator” means an apparatus for the purpose of

controlling and regulating the supply of gas to any engine and preventing any inconvenience or danger from the intermittent consumption of gas by the engine. A.D. 1928.

32. Notwithstanding anything in the Gasworks Clauses Act 1871 or any other Act a person shall not be entitled to demand or continue to receive for the purposes of a stand-by supply only from the Company a supply of gas for any premises having a separate supply of gas or a supply (in use or ready for use for the purposes for which the stand-by supply of gas is required) of electricity steam or other form of energy unless he has agreed with the Company to pay to them such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing such stand-by supply and will cover other standing charges incurred by them in order to meet the possible maximum demand for those premises. The sum so to be paid shall be determined in default of agreement by arbitration in manner provided by the Arbitration Act 1889. Supply of gas where consumer has separate supply.

33. Unless at the date of the demand for any such new or increased supply of gas as is hereinafter referred to the capacity of the distribution works of the Company in connection with the supply of gas is in the opinion of an arbitrator appointed as hereinafter provided insufficient to meet (with a reasonable margin) the requirements (as existing immediately before that date) of the consumers in the portion of the gas limits for which such works have been provided (so far as such requirements could reasonably have been foreseen) the Company notwithstanding anything contained in any other enactment shall not be obliged to give for any purpose other than lighting or domestic use— Relief from obligation to supply gas.

- (a) a new supply of gas for the premises of any person demanding such supply at any time after the passing of this Act; or
- (b) an increased supply of gas (other than an increased supply necessitated by any reduction of the declared calorific value of the gas)

where the giving of such new or increased supply would render necessary the laying of a new main or the making (as an alternative to the laying of a new main) of any enlargement or alteration of or addition to the said distribution works of the Company :

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Provided that the foregoing provisions of this section shall not apply in any case in which the person demanding the new or increased supply (in this section referred to as "the applicant") shall enter into a written contract with the Company—

- (i) to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the Company may reasonably require; or
- (ii) to make such payment or payments to the Company (in addition to any payments to be made from time to time for gas supplied to the applicant) as the Company may reasonably require;

(according as the Company may in their discretion determine) in consideration of or by way of contribution towards the expenses to be incurred by the Company in laying such new main or making such enlargement alteration or addition as aforesaid and shall give such security for the payment of all moneys which may become due under the contract as the Company may reasonably demand :

Provided also that if any question shall arise under the provisions of this section between the Company and the applicant as to the sufficiency of the said distribution works of the Company or as to whether such new or increased supply would necessitate the laying of a new main or the making of any such enlargement alteration or addition as aforesaid or as to the reasonableness of the minimum quantity or period or of the payments (in addition to payments for gas supplied) required by the Company or as to the nature or amount of the security demanded by the Company such question shall be referred to and determined by an arbitrator to be appointed (failing agreement between the Company and the applicant) by the Board of Trade on the application of either party after notice in writing to the other of them and the decision of such arbitrator shall be final and binding :

Provided further that in determining any such question as aforesaid the arbitrator shall have regard to the following among other considerations (that is to say) :—

- (a) the total annual quantity of gas required by the applicant the maximum quantity required per

hour and the hours of the day during which the Company may be called upon to supply gas to the applicant ;

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- (b) the capital expenditure which the Company would have to incur in the laying of a new main or the making of any enlargement or alteration of or addition to their distribution works as aforesaid in connection with the giving of such new or increased supply; and
- (c) how far such capital expenditure may become unproductive to the Company in the event of the cesser of the new or increased supply.

Subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any arbitration under this section.

34.—(1) Every consumer of gas supplied by the Company who uses for or in connection with the consumption of such gas air at high pressure or any gas not supplied by the Company (in this section referred to as “high-pressure air or other gas”) shall if required to do so by the Company provide and fix in a suitable position and use an efficient valve or other appliance for preventing the admission of such air or other gas into the service pipe or any main through which gas is supplied by the Company and shall at all times at his own expense keep in proper order and repair any such valve or other appliance as aforesaid which shall have been provided and fixed whether upon such requirement or otherwise.

Provision
of valve
where high-
pressure air
or other gas
is used.

(2) It shall not be lawful for any consumer at any time after the passing of this Act to commence to use high-pressure air or other gas unless and until he shall have given to the Company not less than fourteen days’ previous notice in writing of his intention to do so.

(3) Every consumer who at the date of the receipt by him of any such demand note as is referred to in paragraph (a) of subsection (5) of this section is using high-pressure air or other gas shall within one month after that date give to the Company notice in writing of such use and if within one month after the giving of such notice the Company require the consumer giving the same to provide and fix such a valve or other appliance as aforesaid it shall not be lawful for him

A.D. 1928. after the expiration of fourteen days from the receipt of the requirement to continue to use high-pressure air or other gas unless before such expiration he shall have complied with the requirement.

(4) If any consumer shall fail to comply with any requirement or obligation under this section the Company may cease to supply gas to him and shall not be under any obligation to resume such supply until the default shall have been remedied to their satisfaction.

(5) The Company shall give notice of the effect of the foregoing provisions of this section—

(a) (in the case of all persons who at the date of the passing of this Act are consumers of gas supplied by the Company) on the demand notes for gas charges payable to the Company issued next after that date; and

(b) (in the case of any person becoming after the date of the passing of this Act a consumer of gas supplied by the Company) on the first of such demand notes delivered to such person after he shall have become a consumer.

(6) The Company shall have access at all reasonable times to all premises supplied by them with gas in or upon which high-pressure air or other gas is used or the Company have reason to believe that high-pressure air or other gas is or may at the time be used in order to ascertain whether any such valve or appliance as aforesaid is efficient or is in proper order and repair or whether such a valve or appliance is provided and fixed where necessary.

(7) The Company shall be at liberty to take off remove test inspect and replace any such valve or other appliance as aforesaid such taking off removing testing inspecting and replacing to be done at the expense of the Company if the valve or other appliance be found in proper order but otherwise at the expense of the consumer.

Power to
agree as to
drainage of
lands.

35.—(1) The Company may make and carry into effect agreements with the owners lessees or occupiers of any lands from through or under which any water may flow or percolate directly or derivatively into any well adit or other work of the Company with reference to the execution by the Company or such owners lessees or

occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters so flowing or percolating.

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(2) The Company may in and upon any lands held by them construct and lay down drains sewers water-courses and other works and conveniences necessary or proper for the purpose of intercepting or taking all foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Company are empowered to take from being polluted and the Company may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road within the water limits subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

36.—(1) For the purpose of executing constructing laying down enlarging extending repairing cleansing emptying or examining any reservoir filter bed well adit main pipe or other work of the Company the Company may cause the water in any such work to be discharged into any available stream ditch or watercourse :

Discharge of
water into
streams.

Provided that any water so discharged shall so far as may be reasonably practicable be free from mud solid or offensive matter and other matter injurious to fish or spawn or spawning beds or food of fish.

(2) In the exercise of the power conferred by this section the Company shall do as little damage as may be and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration under and pursuant to the provisions of the Arbitration Act 1889.

(3) The powers conferred by this section shall not be exercised so as to damage or injuriously affect the railways or works of any railway company.

37. The Company shall not be bound to supply with water by means of the same communication pipe more than one house or part of a house comprising a hereditament separately assessed for rating purposes by the local rating authority and they may if they think fit

Separate
communi-
cation pipe
for water
supply.

A.D. 1928. — require that a separate pipe for such supply be laid from the main pipe into each such house or part of a house supplied by them with water.

Maintenance of common pipe for supply of water.

38. Where several houses or parts of houses in the occupation of several persons are supplied with water by one common pipe belonging to the several owners or occupiers of such houses or parts of houses the said several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Company in the maintenance and repair of such pipe and their respective proportions of contribution shall be settled by the engineer or secretary of the Company.

As to communication pipes for water supply.

39. For the purpose of complying with any obligation under the Waterworks Clauses Act 1847 to maintain any pipe or apparatus the person liable to maintain the same shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

Power to Company to repair communication pipes for supply of water.

40.—(1) The Company by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe for the supply of water and for that purpose to open or break up any street in the water limits may execute such works on behalf of the owner or occupier.

(2) Section 56 (Power to Company to repair communication pipes) of the Act of 1919 is hereby repealed and in lieu thereof the following provisions shall have effect except where any such agreement as is referred to in subsection (1) of this section exists (that is to say) :—

If it should appear to the Company that by reason of any injury to or defect in any communication pipe which the Company are not under obligation to maintain there is any waste or risk of waste of water or injury or risk of injury to person or property it shall be lawful for the Company to execute such repairs as they may think necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the communication pipe shall have been ascertained the expense incurred by the Company for the

purposes of ascertaining the injury or defect and executing the repairs (including the expense of breaking up filling in reinstating and making good any road pavement or soil for those purposes) shall be recoverable by them from the person liable to pay the water rate in respect of the premises supplied by such communication pipe :

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Provided that nothing in this section shall affect the contractual liability of any person in respect of such premises and where a party to any agreement has under this section paid to the Company any expenses in respect of any matter for which under the agreement the other party thereto is liable he may recover from such other party the amount of the said expenses and in any such case if he is the occupier and the other party the owner he may deduct the amount of the expenses from any rent owing by him to the owner.

41. Section 35 of the Waterworks Clauses Act 1847 in its application to the Company shall be read and construed as if the words "one-eighth part" were substituted therein for the words "one-tenth part."

Application of section 35 of Waterworks Clauses Act 1847.

42. Every person who shall wilfully (without the consent of the Company) or negligently close or shut off any valve cock or other work or apparatus belonging to the Company whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Company) be liable on summary conviction to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any damage by them sustained. Provided that this section shall not apply to a consumer closing the valve fixed on his communication pipe.

Penalty for closing valves and apparatus.

43. Where the owner or occupier of any house or building or part of a house or building or premises is not for the time being entitled to a supply or the continuance of a supply of water by the Company to or in respect of such house or building or part of a house or building or premises any person who shall without the authority of the Company turn on or cause or permit to be turned on or permit to remain turned on any sluice cock valve or

Penalty for opening water valves &c.

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and Water Act, 1928.

A.D. 1928. — other apparatus attached to any service main or pipe connected with any main of the Company and provided or available for the purpose of affording such supply shall be deemed to commit an offence under section 60 of the Waterworks Clauses Act 1847 and the said section shall extend and apply accordingly.

Recovery of
expense of
cutting off
water
supplies in
certain
cases.

44.—(1) In any case in which in consequence of any default (other than neglect to pay the water rate) on the part of any person to whom or for whose use the Company supply water the Company cut off any of the pipes by or through which water is supplied by them to or for the use of such person the expense incurred by the Company in such cutting off shall be recoverable by the Company as the water rates in respect of the premises for the supply to which such pipes were laid are recoverable and the Company shall not be under any obligation to supply water to such person or for his use until he shall have paid such expense and the expense of reconnecting the supply.

(2) The powers conferred by this section shall be in addition to and not in derogation of the rights and remedies of the Company under section 74 of the Waterworks Clauses Act 1847.

Guarantees
by district
councils.

45.—(1) Any urban or rural district council whose district is wholly or partly within the limits of supply may give and enter into any guarantee or contract for securing payment to the Company of such periodical or other sum or sums at such time or times in such manner and subject to such stipulations as may be agreed by and between such council and the Company for the purpose of or with respect to the providing or laying down by the Company of any main pipe or works for the supply of water within any part of such district which is within the limits of supply.

(2) The giving of such guarantee and the performance of any contract in relation thereto shall be deemed to be a purpose for which under the provisions of any general Act relating to the powers of such council they may incur expenditure and any such council may raise in like manner as money may be raised under the provisions of any such general Act any money which may become payable to the Company under this section Provided that where such money is raised by a rural district

council by means of a rate such rate shall be levied as a special rate within the meaning of section 3 of the Rating and Valuation Act 1925. A.D. 1928. —

46. Where the limits of supply are bounded by or abut upon any street or road wholly outside such limits the Company may for the purpose of supplying gas or water to the owner or occupier of any premises abutting upon such street or road and being within such limits exercise with respect to such street or road the like powers of breaking up the same for the purpose of laying maintaining inspecting repairing and renewing pipes as are exerciseable by them with respect to streets or roads within the limits of supply and subject to the like conditions and the owner or occupier of any such premises may for the purpose of laying any communication pipe or of complying with any obligation to maintain any pipe or apparatus which he is liable to maintain exercise the like power of opening the ground between any main or pipe of the Company and his premises and of opening or breaking up so much of the pavement of the street as shall be between such main or pipe and his premises and any sewer or drain therein as if such street or road were within the limits of supply Provided that nothing in this section shall entitle or require the Company to supply gas or water to the owner or occupier of any premises abutting upon any such street or road as aforesaid and being outside the limits of supply.

As to streets and roads forming boundary of gas or water limits.

47. The provisions of the Waterworks Clauses Act 1847 or of the Gasworks Clauses Act 1847 (as the case may be) with respect to the breaking up of streets shall apply with the necessary modifications to the construction laying down erection and maintenance in any streets or roads within the water limits of any discharge pipes and within those limits or the gas limits of telephone or telegraph posts wires conductors or apparatus which the Company may and which they are hereby authorised to lay down or erect for the purposes of the undertaking :

Application of Waterworks Clauses Act 1847 and Gasworks Clauses Act 1847 to pipes telephones &c.

Provided that the Company shall not lay down or erect any discharge pipes telephone or telegraph posts wires conductors or apparatus in any street or road without the consent in writing of the road authority which consent shall not be unreasonably withheld and any dispute as to whether such consent is in any case

A.D. 1928. — unreasonably withheld shall be determined by an arbitrator to be agreed upon between the Company and the road authority or failing agreement to be appointed on the application of either party by the Minister of Health :

Provided also that any telephone or telegraph posts wires conductors or apparatus laid down or erected by the Company under the provisions of this section shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869 and shall be so constructed maintained and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line :

Provided further that the Company shall not exercise the powers of this section in respect of any street or road which is the property of or maintained by a railway company without the consent in writing of such railway company which consent shall not be unreasonably withheld and any dispute as to whether such consent is in any case unreasonably withheld shall be determined by an arbitrator to be agreed upon between the Company and the railway company or failing agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such determination.

Power to
grant pen-
sions &c.

48.—(1) The directors may grant such gratuities pensions and superannuation allowances or make such other payments as they may think fit to any employee of the Company or where in any particular case no adequate provision is in their opinion otherwise made to the widow or family or any dependant of any such employee.

(2) The directors may enter into and carry into effect agreements with any insurance company or other association or company for securing to any such employee widow family or dependant such gratuities pensions allowances or payments as are by this section authorised to be granted or made.

(3) The directors may subscribe or make donations to any fund raised in case of national emergency and to

infirmaries hospitals and convalescent homes and other institutions and objects and to the benevolent and sick funds of the employees of the Company. A.D. 1928. —

(4) The directors may provide maintain and equip grounds for games sports or recreation for the use of employees of the Company and others and may acquire or take on lease for that purpose any lands in addition to any other lands which they are or may be authorised to acquire by agreement or otherwise The directors may on such occasions as they may think fit admit or sanction the admission of any persons to any grounds so provided either with or without payment for such admission.

49.—(1) The prescribed number of auditors shall be one or two as the Company may from time to time in general meeting resolve but until the Company otherwise so resolve the prescribed number of auditors shall be two. Auditors.

(2) Such auditor or auditors shall be a member or members of the Institution of Chartered Accountants or the Society of Incorporated Accountants and Auditors or an accountant or accountants approved by the Board of Trade and need not be the holder or holders of any shares or stock in the capital of the Company.

(3) In the event of the death or resignation of any auditor the directors may appoint an auditor in the place of the auditor so dying or resigning and any auditor so appointed shall hold office until the next ordinary general meeting of the Company.

50. Any building of the Company (not being a dwelling-house) shall be exempt from the operation of any byelaws under section 157 (Power to make byelaws respecting new buildings &c.) of the Public Health Act 1875 for the time being in force in the district of any local authority within the limits of supply. Exemption of Com-pany's buildings from build-ing byelaws.

51. The following enactments are hereby repealed :— Repeal.

The Bournemouth Gas and Water Act 1878—

- Section 28 (Burner);
- Section 29 (Testing place and notice of testing);
- Section 31 (Inspection of meters).

The Act of 1896—

- Section 14 (Discounts);
- Section 19 (As to testing place).

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The Act of 1913—

Section 26 (Bournemouth Company not bound to supply several houses by one pipe);

Section 47 (Quality of gas);

Section 48 (Supply of suitable burners gratis in lieu of those in use);

Section 49 (Pressure);

Section 50 (Saving as to penalties);

Section 55 (Anti-fluctuators to be used with gas engines);

Section 57 (Supply of gas where consumer has separate supply).

The Act of 1919—

The second proviso to section 2 (Incorporation of general Acts);

Section 51 (As to pressure);

Section 52 (Amending obligations as to supply of gas).

The Bournemouth Gas (Standard of Calorific Power) Order 1917.

Application of funds.

52. The Company and the directors may apply for all or any of the purposes of this Act the capital funds and revenues of the Company.

Powers of Act cumulative.

53. The powers by this Act conferred upon the Company shall be in addition to and not in derogation of the powers exerciseable by them under the Bournemouth Gas and Water Acts and Orders 1873 to 1921 and the Order of 1921.

Recovery of penalties &c.

54. Save as otherwise expressly provided by any Act or Order from time to time relating to the undertaking all offences against and all penalties forfeitures costs and expenses imposed or recoverable under any such Act or Order or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

55. Proceedings for the recovery of any demand made under the authority of any Act or Order from time to time relating to the undertaking or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

A.D. 1928.
—
Recovery of demands.

56. Where the payment of more than one sum by any person is due under any Act or Order from time to time relating to the undertaking any summons or warrant issued for the purposes of any such Act or Order in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

Several sums in one summons.

57. A judge of any court or a justice shall not be disqualified in the execution of any Act or Order from time to time relating to the undertaking by reason of his being liable to any rate.

Judges not disqualified.

58. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in whole or in part be charged against revenue.

Costs of Act.

A.D. 1928.

The SCHEDULE referred to in the
foregoing Act.

AREA ADDED TO LIMITS FOR THE SUPPLY OF GAS.

So much of the parish of Corfe Mullen in the rural district of Wimborne and Cranborne and of the parish of Lytchett Minster in the rural district of Poole in the county of Dorset as is not now within the limits for the supply of gas by the Company (the portions of the said parishes now within the said limits being so much thereof respectively as is situate eastward of the Hamworthy to Broadstone branch of the Southern Railway) except so much of the said parish of Lytchett Minster as is situate westward of an imaginary line drawn parallel with and at a distance of one hundred yards westward of the Poole and Wareham Road between the southern boundary of that parish and a point in the southern side of the Poole and Dorchester Road and from the last-mentioned point in a northerly direction to the point at which the eastern extremity of the southernmost boundary of the parish of Lytchett Matravers joins the boundary between that parish and the said parish of Lytchett Minster near Hill Farm.

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