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CHAPTER lxx.

An Act to empower the Swanage Gas and Water Company A.D. 1912.
to construct additional waterworks to confer further
powers upon them with reference to their gas and water
undertakings and for other purposes.

[7th August 1912.]

WHEREAS by the Swanage Gas and Water Act 1901 (in this Act referred to as "the Act of 1901.") the Swanage Gas and Water Company (in this Act referred to as "the Company") were incorporated and were thereby empowered to supply gas and water in the limits thereby prescribed:

And whereas by the Act of 1901 it is provided that the capital of the Company shall be thirty-five thousand six hundred pounds in respect of their gas undertaking and forty-six thousand pounds in respect of their water undertaking which last-mentioned capital is divided into seventeen thousand four hundred pounds original water capital (bearing interest as to five thousand seven hundred pounds thereof at the rate of ten pounds per centum per annum and as to eleven thousand seven hundred pounds thereof at the rate of seven pounds per centum per annum) and twenty-eight thousand six hundred pounds additional water capital by the said Act authorised to be raised (whereof not more than one half may be raised as preference shares or stock) of which the Company have raised thirteen thousand nine hundred pounds four and a half per centum preference stock:

And whereas the full dividends on the said original water capital have never been paid by the Company and no dividends thereon have been paid since the year one thousand nine hundred and seven and consequently no portion of the additional water capital authorised by the Act of 1901 can be raised as ordinary capital:

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And whereas the sum of four thousand three hundred and fifty pounds being one fourth of the amount of the original water capital has been borrowed on mortgage and is now owing in respect of the water undertaking of the Company :

And whereas in respect of the said additional capital of twenty-eight thousand six hundred pounds the Company are empowered to borrow any sum not exceeding in the whole one-third part thereof and the Company have not exercised any of such powers but have obtained a temporary loan of two thousand pounds and in addition have obtained an overdraft from their bankers of a sum of upwards of three thousand pounds :

And whereas the water available for supply by the Company has proved insufficient to meet the demands of the Company's area of supply in the summer months :

And whereas for the purpose of obtaining an adequate supply of water for the present and future requirements of the Company it is expedient that they should improve and extend their existing wells at Ulwell and that they should be empowered to make and maintain the works and to acquire the lands in this Act described :

And whereas in order that the remainder of the additional water capital authorised by the Act of 1901 may be raised it is expedient that the prohibition contained in the said Act against raising more than one half of the said capital by the creation and issue of preference shares or stock should be repealed :

And whereas it is expedient that the Company should be authorised to raise further capital and to borrow moneys for the purposes of their water undertaking :

And whereas it is expedient in view of the expenditure incurred and to be incurred by the Company in improving and extending their existing works at Ulwell and in the construction of the works by this Act authorised that their authorised scale of rates for the supply of water should be increased and that other powers with reference to their water undertaking should be conferred upon them as by this Act provided :

And whereas it is expedient that a new burner should be prescribed for testing the gas supplied by the Company and that further powers should be conferred upon them in respect of their gas undertaking as in this Act provided :

And whereas plans and sections showing the lines and levels of the works by this Act authorised and plans of the

lands required or which may be taken or used for the purposes or under the powers of this Act with a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of such lands were duly deposited with the clerk of the peace for the county of Dorset and are in this Act respectively referred to as the deposited plans sections and book of reference : A.D. 1912.

And whereas the objects aforesaid cannot be attained 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) :—

1. This Act may be cited as the Swanage Gas and Water Act 1912 and the Act of 1901 and this Act may be cited together as the Swanage Gas and Water Acts 1901 and 1912. Short and collective titles.

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 general Acts

(1) The Waterworks Clauses Acts 1847 and 1863 except the words "with the consent in writing of the owner or "reputed owner of any such house or of the agent "of such owner" in section 44 of the Waterworks Clauses Act 1847 :

(2) The Lands Clauses Acts :

(3) The provisions of the Companies Clauses Consolidation Act 1845 (except the provisions relating to the conversion of borrowed money into capital) and Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts.

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

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The expression "the new works" means the works by this Act authorised;

The expression "the waterworks" means both the existing waterworks of the Company and the new works; and

The expression "the council" means the urban district council of Swanage.

WATER.

Power to
make works.

4. Subject to the provisions of this Act the Company may in the county of Dorset and on the lands delineated on the deposited plans and described in the deposited book of reference make and maintain the following works shown on the deposited plans and sections and may enter upon take and use such of the said lands as may be required for that purpose or for the purposes of their water undertaking (that is to say):—

- (1) A well and pumping station to be situate in the parish of Arne in the enclosure numbered 437 upon the $\frac{1}{2500}$ Ordnance map of the said parish (2nd edition 1901) sheet L. 9:
- (2) An adit (No. 1) to be situate in the said parish commencing at the said well and terminating at or near the north-west corner of Stoborough Heath near to Rodwell Cottage in the enclosure numbered 368 upon the said Ordnance map:
- (3) An adit (No. 2) to be situate in the said parish commencing at the said well and terminating in the northern corner of the enclosure numbered 508 upon the said Ordnance map:
- (4) An adit (No. 3) to be situate in the said parish commencing by a junction with adit No. 1 in the northern corner of the enclosure numbered 439 on the said Ordnance map and terminating in the north-west corner of the enclosure numbered 444 on the said Ordnance map:
- (5) An aqueduct conduit or line of pipes (No. 1) to be situate in the parishes of Arne and Corfe Castle commencing at the said well and pumping station and terminating in the north-west corner of the enclosure numbered 491 upon the $\frac{1}{2500}$ Ordnance map of the parish of Corfe Castle (2nd edition 1901) sheet LVI. 2 at the service tank by this Act authorised;

(6) A service tank or service reservoir to be situate in the parish of Corfe Castle in the north-west corner of the said enclosure numbered 491 : A.D. 1912.

(7) An aqueduct conduit or line of pipes (No. 2) to be situate in the parishes of Corfe Castle Worth Matravers and Langton Matravers commencing at the said service tank and terminating by a junction with the existing pipes of the Company in the road opposite the entrance gate to Leeson Park at Langton Matravers.

5. In addition to the foregoing works the Company may upon the said lands make and maintain all such cuts channels catchwaters tunnels adits mains pipes conduits culverts drifts wells shafts bores drains sluices relief valves washouts overflows bye-washes discharge pipes outfalls waste-water channels gauges filter-beds water-towers tanks banks dams embankments walls bridges approaches engines pumps machinery buildings works telegraphs telephones and other apparatus and appliances as may be necessary or convenient in connection with or subsidiary to the waterworks or any of them but nothing in this section shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them : Power to make subsidiary works.

Provided that no telegraphs telephones or other apparatus and appliances shall be used by the Company for the purpose of transmitting telegrams in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

6. In the construction of the new works the Company may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards Provided that except for the purpose of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections. Limits of deviation.

7. Subject to the provisions of this Act the new works shall for all purposes whatsoever form part of and be comprised in the water undertaking of the Company. Works to form part of undertaking.

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Period for completion of works.

8. If the new works are not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making of the said works or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed. Provided that the Company may alter improve enlarge extend renew or reconstruct any of the new works as and when occasion may require.

Power to take waters.

9. Subject to the provisions of this Act the Company may pump collect impound take use divert and appropriate for the purposes of their water undertaking all underground streams springs and waters which will or may be taken or intercepted by means of any of the new works.

Supply of water from Well No. 1 to be discontinued.

10. The supply of water from the well known as "Well No. 1" and situate in and under the offices and premises of the Company in Marshall Row Swanage shall be discontinued and the Company shall forthwith dismantle and permanently close the said well to the reasonable satisfaction of the council.

Power to acquire easements in lieu of lands.

11.—(1) The Company may in lieu of acquiring any lands for the purposes of the new works where the same are intended to be constructed underground acquire such easements only in such lands as they may require for such purposes and may give notice to treat in respect of such easements describing the nature thereof. And the provisions of the Lands Clauses Acts shall apply to and in respect to the acquisition of such easements as fully as if the same were lands within the meaning of those Acts.

(2) As regards any lands in respect of which the Company have acquired easements only under the provisions of this section the Company shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall subject to such easements have the same rights to use and cultivate the said lands at all times as if this Act had not passed.

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

12. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

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Period for compulsory purchase of lands.

13. And whereas in the construction of the works by this Act authorised or otherwise in the exercise by the Company of the powers of this Act it may happen that a portion only of the property numbered on the deposited plans 2 in the parish of Arne will be sufficient for the purposes of the Company and that such portion or some other portion less than the whole can be severed from the remainder of the said property without material detriment thereto Therefore the following provisions shall have effect:—

Owners may be required to sell parts only of certain property.

- (1) The owner of and persons interested in the said property or each or any of them are hereinafter included in the term "the owner":
- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of the said property the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise:
- (3) If within such twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted (hereinafter referred to as "the tribunal") shall in addition to the other questions required to be determined by it determine whether the portion of the said property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed:

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- (4) If the tribunal determine that the portion of the said property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Company the portion which the tribunal shall have determined to be so severable without the Company being obliged or compellable to purchase the whole the Company paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal :
- (5) If the tribunal determine that the portion of the said property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner :
- (6) If the tribunal determine that the portion of the said property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Company may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice :
- (7) If the tribunal determine that the portion of the said property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Company in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that the said property or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

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The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

14. All private rights of way over any lands which shall under the powers of this Act be acquired compulsorily shall as from the date of such acquisition be extinguished. Provided that the Company shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

As to private rights of way over lands taken compulsorily.

15. For the protection of the London and South Western Railway Company (in this section called "the South Western Company") the following provisions shall unless otherwise agreed between the South Western Company and the Company apply and have effect:—

For protection of London and South Western Railway Company.

- (1) In laying down altering improving enlarging extending maintaining repairing or renewing any mains pipes or other works in the exercise of the powers contained in this Act upon across over under or in any way affecting the railways belonging to the South Western Company or any lands or property now used or occupied by them or the bridges approaches viaducts or other works of the South Western Company (in this section referred to as "the railway works") the same shall (except in cases of emergency) be done under the superintendence (if the same be given) and to the reasonable satisfaction of the chief engineer of the South Western Company and only according to such plans as shall be submitted to and previously reasonably approved by him in writing and in such manner as shall be so approved by him or in case of difference as may be determined by arbitration in manner hereinafter provided. Provided that if the said engineer shall not signify his approval or

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disapproval of any plans or proposals so submitted to him within twenty-one days after the same are delivered to him he shall be deemed to have approved thereof. Provided also that where in the reasonable opinion of the said engineer there is not a reasonably sufficient space on any bridge to lay any mains or pipes between the road surface and the structure of any such bridge the South Western Company may require such mains or pipes to be carried below outside or independently of the structure of any such bridge and shall afford all reasonable facilities for the purpose:

- (2) All such works shall be done by and at the expense of the Company who shall also restore and make good to the reasonable satisfaction of the said engineer the roads over any bridge of the South Western Company or over the approaches to any such bridge so far as the same may be disturbed or interfered with by or owing to any operations of the Company:
- (3) If by reason of the construction or existence of the said mains pipes or other works it may be necessary to alter or strengthen the structure of any bridge belonging to or maintainable by the South Western Company the Company shall bear the whole expense of such alteration or strengthening reasonably incurred and the work thereof shall be carried out by the South Western Company if they so desire:
- (4) All such works and operations and all matters incidental thereto shall be constructed executed and done so as to cause as little injury as may be to the railway works lands or property and so as to cause no interruption to the passage or conduct of traffic over such railways:
- (5) If any injury or interruption as aforesaid shall arise from or in any way be owing to any of the acts works or operations of the Company or the bursting leakage or failure of the mains pipes or works of the Company in under over or near to the railway works the Company shall make compensation to the South Western Company in respect thereof and the

amount of such compensation unless agreed upon shall be determined by arbitration in the manner hereinafter provided: A.D. 1912.

- (6) The Company shall give twenty-one days' notice in writing to the South Western Company before commencing any works affecting the railway works except in cases of emergency and then so soon as is possible after the commencement of the work or the necessity for the same shall have arisen:
- (7) All mains or pipes and other works of the Company upon across over under or in any way affecting the railway works shall be at all times maintained in good repair by the Company and in default of their being so maintained the South Western Company may from time to time by notice in writing signed by their said engineer and delivered at the principal office for the time being of the Company require the Company to forthwith put the same into good repair and if the Company for fourteen days after the receipt of such notice refuse or neglect to proceed with the repair of the same and do not dispute the necessity thereof the South Western Company may without any further notice to the Company repair the same and all costs and expenses reasonably incurred by them in or about such repair shall be repaid to them by the Company. Provided that in case of accidents happening or immediate danger being apprehended to the railway works by reason of any such main pipe or other work as aforesaid being in want of repair the South Western Company may without giving such notice as aforesaid execute such repairs as may be immediately necessary. Provided also that the South Western Company shall as soon as possible give notice to the Company of their intention to execute the same and any reasonable costs and expenses to which the South Western Company may be put by reason of any such repairs shall be repaid to them by the Company:
- (8) The Company shall bear and on demand pay to the South Western Company all reasonable costs of the superintendence by them of the construction of the works and repairs thereof and all reasonable costs of

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watching lighting and protection of the railway works with reference to and during such construction and repair so far as such costs may in case of difference be determined by arbitration as hereinafter provided to have been necessary but such superintendence by the South Western Company shall not relieve the Company from liability for any accident which may be occasioned by or through the operations of the Company or by their contractors agents or workmen :

(9) If at any time it is found necessary in order to enable the South Western Company in the exercise of their existing powers to carry out any alterations renewals repairs or extensions of their railway or works to alter the position of the said mains pipes or works the Company shall on receiving notice in writing from the South Western Company so to do at their own cost and to the reasonable satisfaction of the engineer of the South Western Company alter the position of the said mains pipes or works or temporarily support the same so far as may be necessary to enable the South Western Company to carry out such alterations renewals repairs or extensions of their railway or works and the provisions of this section shall apply to the said mains pipes or works in their altered position :

(10) Any dispute or difference which may arise between the South Western Company and the Company under this section shall be settled by arbitration by an engineer or other fit person to be appointed failing agreement by the President of the Institution of Civil Engineers on the application of either party and subject thereto the provisions of the Arbitration Act 1889 shall apply to such arbitration.

For protection of
Earl of
Eldon.

16. The following provisions shall unless otherwise agreed in writing have effect for the protection of the Right Honourable John Earl of Eldon his heirs successors in estate and assigns the owner or reputed owner for the time being of the estate situate in the parishes of Arne Corfe Castle Langton Matravers Swanage and elsewhere in the county of Dorset and known as the Encombe Estate and his lessees and tenants (in this section called "the owner") :—

(1) Notwithstanding anything contained in this Act or shown A.D. 1912.

upon the deposited plans the Company shall not in constructing the aqueducts conduits or lines of pipes Nos. 1 and 2 by this Act authorised (in this section referred to as "the aqueducts") upon or through the lands of the owner acquire any greater right or estate in such lands in connection with such aqueducts than an easement or right of constructing placing laying inspecting maintaining cleansing repairing or managing the aqueducts and all works in connection therewith which easement or right the owner shall on being requested so to do sell and grant to the Company and the lands of the owner upon or through which the Company may acquire such an easement or right for the purposes of the said aqueduct conduit or line of pipes No. 1 shall be the lands coloured green on the plan signed in duplicate by the Right Honourable John Henry Whitley the Chairman of the Committee of the House of Commons to whom the Bill for this Act was referred one copy of which plan has been deposited in the Parliament Office of the House of Lords and one copy in the Private Bill Office of the House of Commons :

(2) The Company shall not fence off or sever any land of the owner in respect of which the Company acquire any easement or right :

(3) The aqueducts where constructed upon or through the lands of the owner shall be laid underground and so far as reasonably practicable a distance of at least two feet six inches shall intervene between the surface of the ground and the top of the aqueducts and the Company shall restore and maintain the surface of the ground over such portion of the aqueducts to the reasonable satisfaction of the owner and the work of constructing such portions of the aqueducts through the estate shall be completed within six months from the date when the same shall be commenced :

(4) No permanent buildings or works of any kind shall be erected or placed upon the surface of the Encombe Estate or any part thereof save such valves and

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manholes connected with the aqueducts as may be requisite for their proper management and for affording all necessary access thereto:

- (5) Plans and sections of the well and adits by this Act authorised shall as soon as such works are brought into use be supplied to the owner and plans and sections of every extension enlargement or alteration of such works shall also from time to time be supplied to the owner:
- (6) The Company shall compensate and indemnify the owner and his lessees and tenants for and against any loss or damage caused by the leakage or bursting of the service reservoir and aqueducts by this Act authorised:
- (7) Nothing in this Act contained shall prejudice or restrict the rights of the owner and his tenants of passing over and using for all purposes the land over or under the aqueducts so long as the exercise of such rights would not injure the aqueducts or unreasonably interfere with their maintenance:
- (8) The Company shall at all times in connection with permanent works at the pumping station by this Act authorised use such mechanical apparatus as at the time of the construction of those works shall be deemed most suitable for the purpose of consuming or preventing the emission of smoke and in case of any dispute arising between the owner and the Company respecting the kind of apparatus to be so used the same shall be settled by an engineer to be appointed on the application of either party by the President of the Institution of Civil Engineers and subject thereto the provisions of the Arbitration Act 1889 shall apply to any such arbitration.

For protection of trustees of Bankes settled estates.

17. The following provisions for the protection of George Henry William Hervey and the Honourable Sir John Eldon Bankes trustees of the Bankes settled estates in the county of Dorset their heirs successors in estate and assigns (all of whom are hereinafter in this section referred to as "the owners") shall except so far as may be otherwise agreed between the owners and the Company apply and have effect (that is to say):—

- (1) The Company shall not under the provisions of this Act except by agreement purchase or take any lands of the owners for the purpose of any aqueducts conduits or lines of pipes by this Act authorised but the Company may acquire and the owners shall grant to the Company in perpetuity such easements or rights in and upon the lands of the owners as may be necessary for the purpose of constructing renewing repairing cleansing emptying inspecting and affording access to any such aqueducts conduits or lines of pipes and the works incidental thereto: A.D. 1912.
- (2) In the construction and maintenance of the said aqueducts conduits or lines of pipes by this Act authorised through the lands of the owners the Company shall first carefully remove from the surface all turf and vegetable soil on the line or site of the said aqueducts conduits or lines of pipes and on the completion of such works they shall replace the turf and restore the surface as soon as may be to its former level and condition:
- (3) The provisions of the section of this Act whereof the marginal note is "Power to acquire easements in lieu of lands" except subsection (3) of that section shall extend and apply to the easements and rights to be acquired in pursuance of this section.

18. The following provisions for the protection of the rector of the parish of Corfe Castle and his successors in title for the time being owners of the glebe land in the parish of Corfe Castle (all of whom are hereinafter in this section referred to as "the rector") shall except so far as may be otherwise agreed between the rector and the Company apply and have effect (that is to say):— For protection of rector of Corfe Castle.

- (1) The Company shall not for the purposes of the service tank or reservoir by this Act authorised acquire from the rector any greater portion than one acre of the enclosure numbered 491 upon the $\frac{1}{2500}$ Ordnance map of the parish of Corfe Castle (2nd edition 1901) sheet LVI. 2 and for the purposes of the aqueducts conduits and lines of pipes by this Act authorised the Company shall acquire from the rector only such rights and easements as may be necessary for

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the purpose of making maintaining using cleansing repairing and renewing the said works and for obtaining access thereto and they may also acquire from the rector easements or rights for the purpose of obtaining access to the said service tank or reservoir and to the site thereof Provided that after the construction of the said service tank or reservoir no use shall be made by the servants and workmen of the Company of the said easements or rights for the purpose of obtaining access to the said service tank or reservoir if and so long as the rector shall afford to the Company other sufficient and convenient means of access thereto :

- (2) The provisions of the section of this Act whereof the marginal note is "Power to acquire easements in lieu of lands" except subsection (3) of that section shall extend and apply to the easements and rights to be acquired in pursuance of this section :
- (3) The land to be acquired from the rector as aforesaid shall not be used for any purpose other than for the said service tank or reservoir :
- (4) When the said service tank or reservoir has been completed the Company shall cause the same to be covered to a depth of not less than two feet with soil properly turfed and shall keep the same so turfed to the reasonable satisfaction of the rector or in the alternative the Company shall cause the said service tank or reservoir to be masked by a screen of trees or shrubs which shall be maintained or replaced at all times and to the like satisfaction :
- (5) In the construction and maintenance of the said aqueducts conduits or lines of pipes through the lands of the rector the Company shall first carefully remove from the surface all turf and vegetable soil on the line or site of the works and on the completion of such works they shall replace the turf and restore the surface as soon as may be to its former level and condition.

As to supply of water to rural district council of Wareham and Purbeck.

19.—(1) The Company shall at any time after they commence to supply water from any of the new works supply to the rural district council of Wareham and Purbeck (in this section referred to as "the council") —

(A) For the supply of so much of the parish of Arne as lies to the south of the South River Frome such daily quantity of water not exceeding twenty gallons per head per day of the population thereof for the time being as the council shall from time to time require and agree to take at the price of ninepence per one thousand gallons and such supply shall be given in priority to any other supply by the Company from the said works ;

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(B) For the supply of the parishes of Corfe Castle and Worth Matravers such daily quantities of water not exceeding twenty gallons per head per day of the population for the time being of the said parishes respectively as the council shall from time to time require and agree to take at the price of one shilling per one thousand gallons :

And such supplies respectively shall be delivered at such point or points on the aqueduct conduit or line of pipes from which the supply may be given as may be agreed between the council and the Company or as failing agreement may be determined by arbitration under this section.

(2) All water taken by the council shall be measured by a meter or other apparatus to be provided by the council and approved by the engineer of the Company at every point where a supply shall be given. Every such meter shall be placed in some suitable chamber or building to be provided by the council and every such meter and all pipes valves and other apparatus connecting it with the aqueduct or other works from which the water is taken shall be fixed and constructed by the Company at the cost of the council. The Company shall at all reasonable times be at liberty after giving forty-eight hours' notice to the council to inspect every such meter and the works appertaining thereto and to test the accuracy thereof and if necessary to require the same to be repaired and maintained at the expense of the council.

(3) The Company shall not be liable for any damage loss or expenses caused by any failure in the supply of water to the council if such failure shall be occasioned by frost unusual drought or any cause beyond the control of the Company or during any time when the works of the Company shall be undergoing necessary repairs or cleansing.

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(4) All payments for the water supplied shall be payable half-yearly on the first day of January and the first day of July in every year.

(5) Any difference between the Company and the council under this section shall be settled by an arbitrator to be appointed by agreement or in default of agreement by the President of the Institution of Civil Engineers under and subject to the provisions of the Arbitration Act 1889.

Power to purchase additional lands by agreement.

20. Subject to the provisions of this Act the Company in addition to any other lands which they are by this Act authorised to acquire may by agreement purchase or take on lease and hold further lands for the purposes of their water undertaking but the quantity of lands held by the Company in pursuance of this section shall not at any time exceed ten acres Provided that the Company shall not create or permit the creation or continuance of any nuisance on any lands purchased or taken on lease under this section nor erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or in connection with their water undertaking.

Company may sell &c. surplus lands of undertaking.

21. The Company may subject to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of superfluous lands sell lease exchange or otherwise dispose of to such persons and in such manner as the Company may think fit any lands houses or other property for the time being belonging to the Company which they do not require for the purposes of their water undertaking.

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

22. The Company may on all or any of the lands for the time being held by them in connection with their water undertaking execute for the purposes of or in connection with the said undertaking any of the works (other than wells and works for taking and intercepting water) and exercise any of the powers mentioned in or conferred by section 12 of the Waterworks Clauses Act 1847 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 purchased or taken on lease nor erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or in connection with their water undertaking.

23. The Company shall not construct any works for taking or intercepting water from any lands acquired by them in connection with their water undertaking 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.

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Limiting
powers of
Company to
abstract
water.

24.—(1) As from the twenty-fifth day of December one thousand nine hundred and twelve or as from the subsequent quarter day which shall next happen after the Company shall have completed the twelve-inch main between Ulwell and Swanage now in course of construction and shall have expended since the month of September one thousand nine hundred and ten in extending and improving their works at Ulwell sums amounting in the aggregate to not less than two thousand pounds section 71 (Rates for supply of water for domestic purposes) and section 72 (Rates for waterclosets and baths) of the Act of 1901 shall be and the same are hereby repealed. Provided that all rates and charges payable under the said sections in respect of any period prior to the said date may be calculated and recovered as if this subsection had not been enacted.

Rates for
supply of
water.

(2) As from the said date the Company shall at the request of the owner or occupier of any dwelling-house or part of a dwelling-house entitled under the provisions of the Act of 1901 or this Act to demand a supply of water for domestic purposes furnish to such owner or occupier a sufficient supply of water for such domestic purposes at rates not exceeding the rates per annum hereinafter specified (that is to say):—

Where the rateable value of the premises so supplied with water does not exceed seven pounds the sum of eight shillings and eightpence;

Where such rateable value exceeds seven pounds a rate not exceeding eight pounds per centum of such rateable value;

And as from the quarter day which shall next happen after the Company commence to supply water from the new works at rates not exceeding the rates per annum hereinafter specified (that is to say):—

Where the rateable value of the premises so supplied with water does not exceed seven pounds the sum of eight shillings and eightpence;

Where such rateable value exceeds seven pounds a rate not exceeding ten pounds per centum of such rateable value.

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The rateable value of any such premises as aforesaid shall be ascertained by the valuation list in force at the commencement of the quarter for which the rate accrues or if there is no such list in force by the last rate made for the relief of the poor. Provided that where the water rate is chargeable on the rateable value of a part only of any hereditament entered in the valuation list such rateable value shall be a fairly apportioned part of the rateable value of the whole tenement ascertained as aforesaid the apportionment in case of dispute to be ascertained by a court of summary jurisdiction.

(3) In addition to the foregoing charges the Company may charge in respect of every watercloset beyond the first (for which no additional charge shall be made) on any premises within the limits for the supply of water by the Company a sum not exceeding five shillings per annum and for every fixed bath capable of containing not more than fifty gallons a sum not exceeding twelve shillings per annum and for every fixed bath capable of containing more than fifty gallons such sum as the Company may think fit such additional sum to be paid quarterly in advance and to be recoverable in all respects with and as the water rate.

Supply of
water by
hose-pipe to
stables &c.

25. When water supplied for domestic purposes is used for washing horses carriages or motor cars or for other purposes in stables or premises where horses carriages or motor cars are kept the Company may if a hose-pipe or other similar apparatus is used charge such additional sum not exceeding twenty shillings per annum as they may prescribe and any sum charged under this section shall be recoverable in the same manner as water rates.

Detection of
waste.

26. Subject to the provisions of the Waterworks Clauses Act 1847 the Company may for the purpose of preventing and detecting waste affix and maintain meters and similar apparatus on the service pipes and mains of the Company and stopcocks in the pipes supplying houses with water and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and may for that purpose break up and interfere temporarily with public and private streets roads lanes footways courts passages tramways gas or water pipes electric and other lines wires and apparatus:

Provided that the Company shall not break up or interfere with any electric lines wires or apparatus of the Postmaster

General except in accordance with and subject to the provisions of the Telegraph Act 1878. A.D. 1912.

27. 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. As to communication pipes.

28. Every consumer of water of the Company shall at all times at his own expense keep all meters belonging to him whereby any water of the Company is registered in proper order for correctly registering such water in default whereof the Company may cease to supply water through such meters and the Company shall at all reasonable times have access to and be at liberty to take off remove test inspect and replace any meter belonging to a consumer such taking off removal testing and inspecting and replacing to be done at the expense of the Company if the meter be found in proper order but otherwise at the expense of the consumer. Repair of meters by consumers.

29. Where water is supplied by meter the register of the meter or other instrument for measuring water shall be *prima facie* evidence of the quantity of water consumed and in respect of which any water rate is charged and sought to be recovered by the Company Provided always that if the Company and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid and the decision of such court shall be final and binding on all parties. Register of meter to be evidence.

30. Any fittings or apparatus let for hire under the provisions of section 83 (Power to supply materials) of the Act of 1901 shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be Provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Company as the actual owners thereof. Fittings not to be subject to distress.

A.D. 1912.

Power to re-
move meters
and fittings.

31. The Company by their agents or workmen after forty-eight hours' notice in writing under the hand of the secretary or some other officer of the Company to the occupier or if there be no occupier then to the owner or lessee of any house building or land in which any pipe meter or fitting belonging to the Company is laid or fixed and through or in which the supply of water is from any cause other than the default of the Company discontinued for the space of forty-eight hours may enter such house building or land between the hours of nine in the morning and four in the afternoon or at any other time with the authority in writing of a justice for the purpose of removing and may remove every such pipe meter and fitting repairing all damage caused by such entry or removal.

Provisions as
to purchase
of water un-
dertaking by
Swanage
Urban Dis-
trict Council.

32.—(1) If the council shall introduce in the next available session of Parliament a Bill for an Act to empower them to purchase the water undertaking of the Company and shall bonâ fide promote the same the Company shall not oppose such Bill except in so far as may be necessary in order to secure the insertion therein of clauses or provisions to protect their interests with respect to such purchase and for that purpose the Company shall be at liberty to petition either or both Houses of Parliament and to appear upon such petition by counsel agents and witnesses if they think fit.

(2) If such Bill receives the Royal Assent nothing in this Act shall authorise the Company for the purpose of the determination of the purchase price to be paid for the said water undertaking to bring into account or to make any claim in respect of any powers rights or advantages conferred on them by or resulting from the passing of this Act or to bring into account or make any claim in respect of expenditure made or to be made upon the construction of Well No. 1 or Well No. 4 and the lands buildings machinery plant and apparatus connected therewith.

(3) If the council obtain such an Act they shall give to the Company a written notice within three months after the passing of such Act of their intention to purchase and thereupon the Company shall sell and transfer and the council shall purchase and acquire the water undertaking of the Company subject to all their then existing obligations and liabilities.

(4) Any such sale and purchase shall be for such price and consideration being a sum in gross and on such terms and conditions as may be agreed upon between the Company and

the council or as failing such 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 council and the expression "lands" shall mean the water undertaking of the Company. A.D. 1912.

(5) In addition to the sum to be paid by the council to the Company under the foregoing provisions of this section the council shall pay to the Company—

(A) All the costs charges and expenses incurred by the Company preliminary to and of and incident to the promotion of and obtaining this Act so far as it relates to the water undertaking of the Company; and

(B) All the costs charges and expenses incurred by the Company relating to the transfer of the water undertaking of the Company and to the winding-up of that undertaking;

All such costs charges and expenses to be taxed as between solicitor and client if so required on the application of either party the costs charges and expenses (A) by the taxing officer of the House of Lords or of the House of Commons and the costs charges and expenses (B) by a taxing master of the Supreme Court;

(c) The actual amount expended by the Company on capital account in carrying on their undertaking under and as provided by subsection (7) of this section.

(6) The council shall also pay compensation to any officers and servants in the regular employment of the Company in respect of their water undertaking who shall not be retained by the council in the same or similar office or employment and at the salary and on the terms and conditions in at and on which they respectively were employed by the Company on the first day of January one thousand nine hundred and twelve in respect of any loss of office or diminution of salary or income by reason of the transfer of the water undertaking of the Company to the council the amount of such compensation in default of agreement to be determined by arbitration and no officer or servant who has been in the employment of the

A.D. 1912. Company for not less than ten years shall lose his right to compensation as aforesaid by reason of his declining to continue in the service of the council.

(7) The Company shall not except with the consent of the council raise any of the additional capital authorised by this Act previously to the twentieth day of November one thousand nine hundred and twelve and if the council shall give notice of such Bill as aforesaid in October or November one thousand nine hundred and twelve the Company shall not except with such consent as aforesaid raise any of such capital during the promotion of such Bill but the Company may carry on their undertaking as heretofore in the ordinary course of their business.

(8) For the purposes of this section the expression "the water undertaking of the Company" includes all the waterworks engines mains pipes and machinery lands and buildings plant fixed and movable and all other the real and personal property and all the rights powers and privileges vested in or belonging to or had or enjoyed by the Company exclusively for the purposes of or in respect of their undertaking for the supply of water at the date of transfer of such undertaking to the council save and except—

- (A) Well No. 1 and Well No. 4 and the lands buildings machinery plant and apparatus connected therewith;
- (B) The cash balances (other than consumers' deposits) in the Company's hands or those of their bankers or agents securities for money and all sums standing to the credit of their reserve fund and all undivided profits (all of which shall be retained by the Company) and also except movable stock-in-trade coal and other stores applicable to the water undertaking of the Company which shall be purchased by the council by valuation at the date of transfer; and
- (c) All the rents and profits and all book and other debts received by or due to the Company on credit or revenue account and all rates accrued due on the date of transfer and the directors' minute books and other books and papers relating exclusively to the stockholders in and the members and constitution of the Company.

(9) As and from the date of transfer of the water undertaking to the council the name of the Company instead of

being the Swanage Gas and Water Company shall be "The Swanage Gas Company" and for that purpose Part IV. (relating to change of name) of the Companies Clauses Act 1863 is incorporated with this subsection.

A.D. 1912.

GAS.

33.—(1) Section 56 (Burner) of the Act of 1901 is hereby repealed and from and after the passing of this Act the quality of the gas supplied by the Company shall with respect to its illuminating power be such as to produce at the testing place when burned at the rate of five cubic feet per hour a light equal in intensity to the light produced by fourteen sperm candles of six to the pound each consuming one hundred and twenty grains of sperm per hour and shall be in all respects in accordance with the provisions of the Gasworks Clauses Act 1871.

Testing
quality of
gas.

(2) For testing the illuminating power of the gas the burner to be used shall be that known as the Metropolitan Argand No. 2 the photometer shall be the bar photometer or the table photometer the standard light shall be that supplied by Harcourt's ten-candle pentane lamp and in making the test the burner shall be so used as to obtain from the gas when burned at the rate aforesaid the greatest amount of light Provided that the Board of Trade may on the application of the Company or the local authority approve the use of any other burner photometer or standard light which may appear to the Board to be equally or more suitable for the testing.

(3) The Company shall provide all the apparatus required by this Act for the testing of gas and shall at all times keep the same in proper order and repair.

34.—(1) Section 53 (Pressure of gas) of the Act of 1901 is hereby repealed and all gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance a column of water not less than eight-tenths of one inch in height at the main or as near as may be to the junction therewith of the service pipe supplying the consumer.

Pressure of
gas.

(2) Any gas examiner appointed under the Gasworks Clauses Act 1871 may for the purposes of this Act subject to the terms of his appointment at the testing place or at any public lamp as and when he thinks fit test the pressure at which the gas is supplied The Company shall afford to the examiner all reasonable facilities for making the test.

A.D. 1912.

Saving as to penalties.

35. No penalty shall be incurred by the Company for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was produced by any circumstance beyond the control of the Company Provided that the want of sufficient funds shall not be held to be a circumstance beyond the control of the Company.

Power to enter premises and remove fittings.

36. The power to enter premises and to remove pipes meters fittings or apparatus conferred upon the Company by section 22 of the Gasworks Clauses Act 1871 shall extend to all cases in which any person entering into occupation of any premises previously supplied with gas by the Company shall not require to take a supply of gas from the Company or to hire from the Company all or any of the pipes meters fittings or apparatus belonging to the Company and let by them on hire to any former occupier of such premises.

Power to require use of anti-fluctuators for gas-engines.

37. Every consumer of gas supplied by the Company who uses a gas-engine shall if required to do so by the Company use an effective anti-fluctuator and shall at all times at his own expense keep such anti-fluctuator in proper repair and in default of his so using or keeping such anti-fluctuator in proper repair the Company may cease to supply gas to such consumer The Company 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 removing testing inspecting and replacing to be done at the expense of the Company if the anti-fluctuator be found in proper order but otherwise at the expense of the consumer.

Period of error in defective meters.

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

Notice to discontinue supply of gas.

39. A notice to the Company from a consumer for the discontinuance of a supply of gas shall not be of any effect

unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Company or be given personally by the consumer at such office. A.D. 1912.

40. The Company may on the application of the owner or occupier of any premises within the limits for the supply of gas by the Company abutting on or being erected in any street laid out but not dedicated to public use supply those premises with gas and for that purpose the Gasworks Clauses Acts 1847 and 1871 shall apply as if the street were a street within the meaning of those Acts. Power to lay pipes in streets not dedicated to public use.

41. The Company may acquire take and use any leave licence or authority to work use exercise and put in practice any invention under letters patent made or to be made granting any right or privilege of working using exercising or vending any invention in relation to the production manufacture utilisation or distribution of gas or materials used in or resulting from the manufacture of gas or any residual products thereof but not so as to acquire any exclusive right to the working using exercising or putting in practice of any such invention. Power to take licences for use of patents relating to gas.

42. Notwithstanding anything contained in the Gasworks Clauses Act 1871 or any other Act a person shall not be entitled to demand from the Company a supply or the continuance of a supply of gas for premises having a separate supply either of gas or electricity (that is to say a supply from an installation other than that of the Company) unless he shall have previously agreed to pay the Company such minimum annual sum as will give to them a reasonable return on the capital expenditure and standing charges incurred by them to meet the possible maximum demand for those premises and the minimum annual sum to be so 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.

43. No penalty shall be incurred by the Company for neglect or refusal to give a supply of gas in accordance with the provisions of the Act of 1901 and this Act to any company body or person who uses or is in the habit of using machinery or apparatus for making and utilising suction gas if and so long as the giving of a supply to such company body or person would interfere with or jeopardise the supply of gas by the Company for public and private lighting and to consumers not using such machinery or apparatus as aforesaid Provided that in the event of any difference or dispute arising as to whether Provisions as to supply to users of suction gas plant.

A.D. 1912. — any such supply of gas would be so interfered with or jeopardised as aforesaid such difference or dispute shall be referred to and settled by arbitration in manner provided by the Arbitration Act 1889.

CAPITAL.

Repeal of prohibition against raising preference capital.

44. If the Council fail to give notice in October or November one thousand nine hundred and twelve of their intention to introduce the Bill referred to in the section of this Act of which the marginal note is "Provisions as to purchase of water undertaking by Swanage Urban District Council" or if such Bill is rejected by Parliament or fails to become law for any other cause or if such Bill becomes law and the Council fail within three months thereafter to give notice of their intention to purchase the water undertaking of the Company then upon the happening of any of such events so much of section 17 (Power to Company to raise additional capital) of the Act of 1901 as provides that it shall not be lawful for the Company to raise more than one half of the additional water capital by the creation and issue of preference shares or stock shall be and the same is hereby repealed.

Power to Company to raise additional water capital.

45. The Company may from time to time raise additional water capital not exceeding in the whole thirty-nine thousand pounds by the creation and issue of new ordinary shares or stock or new preference shares or stock or wholly or partially by one of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds 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 thirty-nine thousand pounds.

Preference shareholders not to vote.

46. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any preference shares or stock created under the authority of this Act.

Proportionate reduction of dividends in certain cases.

47. In case in any half year the funds of the Company applicable to dividend shall be insufficient to pay the full amount of dividend at the prescribed maximum rate on each class of ordinary stock or shares in the capital of the Company a proportionate reduction shall be made in the dividend of each class.

48. The Company shall not in any one year make out of their profits any larger dividend on the additional capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital unless a larger dividend be at any time necessary, to make up the deficiency of any previous dividend which shall have fallen short of the said sum of seven pounds per centum per annum or than six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

A.D. 1912.
Profits of
Company on
additional
share capital
limited.

49.—(1) All shares or stock created under the powers of this Act shall be issued in accordance with the provisions of this section.

New shares
or stock to
be sold by
auction or
tender.

(2) All shares or stock so to be issued shall be offered for sale by public auction or tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine Provided as follows:—

- (A) Notice of the intended sale shall be given in writing to the clerk to the urban district council of Swanage and the clerk to the rural district council of Wareham and Purbeck and to the secretary of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and shall also be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the limits of supply:
- (B) A reserve price shall be fixed and notice thereof shall be sent by the Company in a sealed letter to be received by the Board of Trade not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be:
- (C) No lot offered for sale shall comprise shares or stock of greater nominal value than one hundred pounds:
- (D) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum In the case of a sale by auction a bid shall not be recognised unless it is in advance of the last preceding bid:

A.D. 1912.

(E) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Company within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any shares or stock which have been so offered for sale and are not sold may be offered at the reserve price to the holders of ordinary and preference shares or stock of the Company in accordance with the provisions of sections 18 19 and 20 of the Companies Clauses Act 1863 and to the employees of the Company and to the consumers of water supplied by the Company in such proportions as the Company may think fit or to one or more of these classes of persons only Provided in the case of an offer to holders of shares or stock that if the aggregate amount of shares or stock applied for shall exceed the aggregate amount so offered as aforesaid the same shall be allotted to and distributed amongst the applicants as nearly as may be in proportion to the amounts applied for by them respectively.

(4) Any shares or stock which have been offered for sale in accordance with subsection (2) or with subsections (2) and (3) and are not sold shall be again offered for sale by public auction or by tender in accordance with the provisions of this section and any such shares or stock then remaining unsold may be otherwise disposed of at such price and in such manner as the directors may determine for the purpose of realising the best price obtainable.

(5) As soon as possible after the conclusion of the sale or sales the Company shall send a report thereof to the Board of Trade stating the total amount of the respective shares or stock sold the total amount obtained as premium (if any) and the highest and lowest prices obtained for the respective shares or stock.

(6) Notwithstanding anything contained in the Act of 1901 the provisions of this section shall also apply to the issue after the passing of this Act of any ordinary or preference shares or stock created under the powers of the Act of 1901.

Application
of premium
arising on
issue of
shares or
stock.

50. Any sum of money which shall arise from the issue of any such shares or stock by way of premium after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the works of the Company or in

paying off money borrowed or owing on mortgage by the Company and shall not be considered as part of the capital of the Company entitled to dividend. Provided that in any case where a power to raise money by borrowing or to create a reserve fund is made proportionate to the paid-up capital the premium received from the sale of shares or stock by auction or tender as hereinbefore provided shall for such purpose be reckoned as part of the paid-up capital.

A.D. 1912.

51. The Company may subject to the provisions of this Act (in addition to any sums which they are now authorised to borrow) borrow on mortgage of the water undertaking of the Company any sum or sums not exceeding in the whole one-third part of the amount of the additional capital by this Act authorised to be raised and at the time actually issued by shares or stock but no part thereof shall be borrowed until the whole of the shares or stock at the time issued together with the premium (if any) realised on the sale thereof shall have been fully paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that such shares and stock and premium (if any) have been issued and fully paid up and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Power to borrow.

52. All mortgages granted by the Company before the passing of this Act in pursuance of the powers of any Act of Parliament and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Existing mortgages to have priority.

53. Section 28 (For appointment of a receiver) of the Act of 1901 is hereby repealed but without prejudice to any appointment heretofore made or to the continuance of any proceedings pending at the passing of this Act and in lieu thereof the mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise

For appointment of receiver.

A.D. 1912. 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 one thousand pounds in the whole.

Priority of existing principal moneys secured by mortgages.

54. All mortgages granted by George Burt or by the trustees referred to in the Act of 1901 in pursuance of the powers given by the Swanage Gas and Water Order 1883 or the Swanage Water Act 1884 and subsisting at the passing of this Act shall during the continuance of such mortgages and subject to the provisions of the Order or Act under which such mortgages were respectively granted have priority over any mortgages or the interest thereon granted by virtue of this Act.

Priority of money raised on mortgage or debenture stock over other claims.

55. All money to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the Company's water undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred upon the Company or on George Burt or the trustees referred to in the Act of 1901 in respect of the water undertaking of the Company.

Debenture stock.

56. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 and of section 31 of the Act of 1901.

Receipt in case of persons not *sui juris*.

57. If any money is payable to a shareholder or mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to Company to apply autho-

58. The Company may apply to any of the purposes of this Act to which capital is properly applicable any of the moneys

which they now have in their hands or which they have power to raise by shares stock debenture stock or mortgage under and by virtue of the Act of 1901 and this Act and which may not be required for the purposes to which they are by the Act of 1901 made specially applicable.

A.D. 1912.
—
rised moneys
to purposes
of Act.

MISCELLANEOUS.

59. The provisions contained in the sections of the Act of 1901 the numbers and marginal notes of which are set forth in this section shall so far as applicable extend and apply to and in relation to the like matters as if they were re-enacted in this Act.

Incorpora-
tion of cer-
tain provi-
sions of Act
of 1901.

The sections hereinbefore referred to are—

Section 66 (Persons under disability may grant easements &c.);

Section 68 (Power to hold lands for protection of works);

Section 69 (Temporary discharge of water into streams);
and

Section 92 (Recovery of penalties).

60. Section 90 (Several sums in one summons) of the Act of 1901 is hereby repealed and where the payment of more than one sum by any person is due under this Act or any of the Acts relating to the Company any summons or warrant issued for the purposes of such Act 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.

61. Section 91 (Liability to water rate not to disqualify justices &c.) of the Act of 1901 is hereby repealed and a judge of any court or a justice shall not be disqualified from acting in the execution of this Act or any of the Acts relating to the Company by reason of his being liable to any rate.

Judges not
disqualified.

62. Penalties imposed under the Act of 1901 and this Act or either of them and the Acts wholly or in part incorporated therewith for one and the same offence shall not be cumulative.

Penalties
not cumula-
tive.

63. Proceedings for the recovery of any demand made under the authority of the Act of 1901 and this Act or either of them 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

Recovery of
demands.

[Ch. lxx.] *Swanage Gas and Water Act, 1912.* [2 & 3 GEO. 5.]

A.D. 1912. matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

Costs of Act. **64.** All the costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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