# CHAPTER ccii.

An Act to confer additional powers upon the Bournemouth Gas and Water Company. [22d July 1878.]

A.D. 1878.

WHEREAS by the Bournemouth Gas and Water Act, 1873, (in this Act referred to as "the Act of 1873,") the Bournemouth Gas and Water Company, Limited, was dissolved, and the shareholders therein with other persons were re-incorporated by the name of "The Bournemouth Gas and Water Company" (in this Act called "the Company"), for the purpose of maintaining and providing gasworks and waterworks and supplying gas and water within the limits of the Act of 1873: 36 & 37 Vict. c. lxxiii.

And whereas by the Act of 1873 the share capital of the Company was fixed at one hundred thousand pounds, of which sum fifty thousand pounds is in that Act and in this Act called original capital, and fifty thousand pounds is in that Act and in this Act called additional capital, with borrowing powers to the extent of twenty-five thousand pounds:

And whereas the Company have created and issued shares to the extent of one hundred thousand pounds, and the shares representing the same have been fully paid up:

And whereas the Company have borrowed on mortgage and now owe the sum of twenty-five thousand pounds, being the whole amount which by the Act of 1873 they were authorised to borrow:

And whereas the rapidly increasing population of the district over which the powers and duties of the Company extend renders necessary an increasing outlay of capital by the Company, and it is expedient that the powers herein-after contained should be granted to the Company in this respect:

And whereas it is also expedient that the Act of 1873 should be in some respects amended, and that the further powers and conditions herein-after contained should be granted to and imposed upon the Company:

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And whereas the objects of this Act 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 Queen'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 title.

**1.** This Act may for all purposes be cited as the Bournemouth Gas and Water Act, 1878.

Incorporation of general Acts.
8 & 9 Vict. c. 16.

**2.** The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the several matters following; (that is to say,)

The distribution of the capital of the Company into shares;
The transfer or transmission of shares;
The payment of subscriptions and the means of enforcing the payment of calls;
The forfeiture of shares for nonpayment of calls;
The remedies of the creditors of the Company against the shareholders;
The consolidation of the shares into stock;
The general meetings of the Company and the exercise of the right of voting by the shareholders;
The making of dividends;
The borrowing of money by the Company on mortgage or bond;
The conversion of the borrowed money into capital;
The consolidation of the shares into stock;
The giving of notices and the provision for affording access to the special Act;
Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, and the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, except the provisions of those Acts "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,"

26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.
19 & 20 Vict. c. x.
39 & 40 Vict. c. cciii.

**3.** The expression "town of Bournemouth" in this Act means and includes the district of the Bournemouth Improvement Act, 1856, as extended by the Local Government Board Provisional Orders Confirmation (Bilborough, &c.) Act, 1876; the expression "the Commissioners" means the Bournemouth Improvement

Commissioners; the several words and expressions to which by the Acts in whole or in part incorporated with this Act, or by the recited Acts relating to the Company, meanings are assigned, have in this Act the same respective meanings, unless there be in the subject or context something repugnant to such construction; and the expressions "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated with this Act, shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Power to Company to raise additional capital.

**4.** The Company may, subject to the provisions of this Act, from time to time raise (in addition to their authorised capital of one hundred thousand pounds) any further capital not exceeding in the whole one hundred and fifty thousand pounds, in this Act called new capital, by the creation and issue of new ordinary shares or stock or 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 of less nominal value than ten pounds, nor shall any such share or stock vest in the person or corporation accepting the same unless and until the full nominal amount of such share or stock, together with any premium obtained upon the sale thereof, shall have been paid in respect thereof.

If authorised capital for any year not raised, amount to be made up.

**5.** If in any year or years the Company have not created and issued capital to the full amount by this Act authorised in relation to such year or years, they may in any subsequent year create and issue, in addition to the amount prescribed for such year, such a nominal amount of capital as shall be sufficient together with the amount then raised to produce in manner aforesaid twenty thousand pounds in respect of the two years following the passing of this Act, and twenty-five thousand pounds in respect of every subsequent year then expired.

Limits of dividend on original capital.

**6.** The Company shall not in any one year make out of their profits any larger dividend on the original capital of fifty thousand pounds than ten pounds in respect of every one hundred pounds actually paid up of such capital, which rate is in this Act referred to as the standard rate of dividend.

Fixing standard price of gas, with sliding scale as to dividend.

**7.** The standard price to be charged by the Company for gas supplied by them within the town of Bournemouth shall for a period of three years from the passing of this Act be five shillings and sixpence, and from and after the expiration of such period of three years five shillings, per one thousand cubic feet, and after the expiration of another period of five years four shillings and sixpence

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per one thousand cubic feet. The standard price to be charged by the Company for gas supplied by them beyond the town of Bournemouth and within the limits of their undertaking shall be seven shillings for a period of three years, and after the expiration of such period six shillings: Provided that the Company may increase or diminish such standard prices subject to a decrease or increase in the standard rate of dividend as defined by this Act, to be calculated as follows:

For every penny charged in excess or in diminution of such standard prices in any year, the standard rate of dividend shall for such year be reduced or increased by five shillings in the hundred pounds per annum:

And provided also, that from and after the passing of this Act the price to be charged by the Company to the Bournemouth Improvement Commissioners for the lighting of the public lamps within the Company's limits of supply shall be subject to a reduction of ten pounds per cent. from the price for the time being charged to private consumers otherwise than by special contract in writing.

Limit of profits on additional new and preference capital.

**8.** The Company shall not in any one year make out of their profits any larger dividend on the additional capital of fifty thousand pounds authorised to be raised by the Act of 1873, or on the new capital of one hundred and fifty thousand pounds to be raised under the powers of this Act, than seven pounds in respect of every one hundred pounds actually paid up of such additional or new capital, as the case may be, as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such additional or new capital, as the case may be, as may be issued as preference capital.

Dividends on various classes of stock or shares.

**9.** The holders of the various classes of ordinary stock or shares in the capital of the Company created under the Act of 1873 and this Act shall, up to and until the respective maximum rates of dividend prescribed by the Act of 1873 and this Act on such respective stock or shares have been reached, be entitled to receive dividends at the same rates per centum per annum.

As to votes of proprietors of such shares or stock.

**10.** The proprietors of any shares or stock to be created and issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented by such shares or stock would have entitled them to if the same had been original shares or stock of the Company, and the proprietors of such shares or stock shall, except as in this Act specially provided, be entitled to the same dividends and the same rights and privileges in all respects, and be subject to the same

obligations and liabilities as the proprietors of the original shares or stock of the Company.

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

**11.** Notwithstanding anything in this Act contained, the Company shall, when any shares or stock created under the powers of this Act are to be issued, and before offering the same to the holder of any shares or stock in the Company, and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not, offer the same for sale by public auction or by tender in such manner, at such times, and subject to such conditions of sale as the Company shall from time to time determine; provided that at any such sale no single lot shall comprise more than one hundred pounds nominal value of such shares or stock, and that the reserved price put upon such shares or stock shall not be less than the nominal amount thereof, and notice of the amount of such reserved price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders, as the case may be, and such letter may be opened after such day of auction or last day for the reception of tenders, and not sooner, and provided that no priority of tender shall be allowed to any holder of shares or stock in the Company.

Purchase money to be paid within three months.

**12.** It shall be one of the conditions of any sale of shares or stock under this Act that the whole nominal amount thereof, together with any premiums given by any purchaser at such sale, shall be paid to the Company within three months after such sale.

As to notice to be given as to sale, &c. of shares or stock.

**13.** The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the clerk to the Bournemouth Commissioners and to the Secretary of the Committee 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 notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the district for the time being subject to the jurisdiction of the Bournemouth Commissioners.

Shares or stock not sold by auction or by tender to be offered to share or stock holders. 26 & 27 Vict. c. 118.

**14.** When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold, the same shall be offered, at the reserved price put upon the same respectively for the purpose of sale by auction or tender, to the holders of ordinary shares or ordinary stock of the Company, in manner, provided by the Companies Clauses Act 1863: Provided always, that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale

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by public auction or by tender in the manner and subject to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act.

Application of premium arising on issue of shares or stock.

**15.** 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.

Power to borrow in respect of additional capital.

**16.** In addition to the sum of twenty-five thousand pounds which the Company are authorised to borrow by the Act of 1873, they may from time to time borrow on mortgage, in respect of the new share capital of one hundred and fifty thousand pounds by this Act authorised to be raised, any sum not exceeding in the whole thirty-seven thousand five hundred pounds, at the time and subject to the restrictions herein-after contained, that is to say, in respect of every sum of twenty-five thousand pounds, part of the new share capital of one hundred and fifty thousand pounds, the Company may borrow the sum of six thousand two hundred and fifty pounds; but no part of any such sum shall be borrowed until shares for so much of the portion of capital in respect of which the borrowing powers are to be exercised as is to be raised by means of shares are issued and accepted, and one half of such capital is 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 the required amount of new capital has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the same portion of capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the same portion of capital is raised by shares, that such persons or corporations are legally liable for the same; and upon production from time to time 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.

8 & 9 Vict. c. 16.

Restriction upon issuing new capital

**17.** In exercising the powers by this Act granted with respect to new capital and borrowing powers the Company shall be subject to the following restriction, that is to say, they shall not within two years from the passing of this Act raise (either by the issue of shares or by borrowing) a greater aggregate sum than twenty thousand pounds without the previous consent in writing of the Bournemouth Improvement Commissioners, nor with such consent a greater aggregate sum than fifty thousand pounds: Provided also, that the Company shall not create and issue within the third year following the passing of this Act, or within any subsequent year, any greater nominal amount of capital than shall be sufficient to produce in manner aforesaid twenty-five thousand pounds.

As to appointment of receiver.

**18.** 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 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 three thousand pounds in the whole.

As to conversion of borrowed money into capital.

**19.** The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or any part thereof, by the creation of shares or stock instead of borrowing, or to convert into capital the amount borrowed under the provisions of this Act, unless in either case all dividends upon the shares or stock, whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum.

Priority of principal moneys secured by existing mortgages.

**20.** The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Priority of mortgages over other debts.

**21.** All money raised or 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 Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.

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by or payable under any lease granted or made to the Company, in pursuance of any Act relating to the Company, which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock.

Debenture stock. 26 & 27 Vict. c. 118.

**22.** The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Rate of interest on debenture stock and borrowed moneys.

**23.** The rate of interest payable upon debenture stock to be created and upon moneys to be borrowed by the Company on mortgage under the powers of this Act shall not exceed five pounds per centum per annum, and the Company shall not renew the existing mortgages or debentures of the Company at a higher rate of interest than five pounds per centum per annum.

Application of money raised under this Act.

**24.** All moneys raised under this Act shall be applied to the purposes of the Company authorised by the Act of 1873 and this Act, and not otherwise.

Power to purchase lands by agreement. Gas not to be manufactured except on lands scheduled.

**25.** The Company may, for the general purposes of their gas and water undertaking, purchase, take, and hold (by agreement, but not otherwise), in addition to the lands described in the schedule to this Act, and also in addition to any lands purchased by the Company under the powers granted to them for that purpose by the Act of 1873, any lands and hereditaments not exceeding in the whole twenty acres which the Company may from time to time require for the purposes of their works and undertaking: Provided always, that the Company shall not erect or authorise or permit the erection on any of such lands while so held by them of any buildings other than buildings necessary for or connected with their gasworks or waterworks, but no lands shall be used by the Company for the purpose of manufacturing gas or residual products except the lands described in the schedule to this Act.

Repeal of parts of Act of 1873.

**26.** Sections 32 (number of directors), 39 (limiting the price of gas), 42 (testing place), and 43 (burner) of the Act of 1873 shall be and the same are hereby repealed.

Number of directors.

**27.** The number of directors shall be five, but the Company may reduce the number to three.

Burner.

**28.** The prescribed burner shall be Sugg's London Argand Burner No. 1, consuming five cubic feet of gas per hour, with a six-inch by one-and-three-quarter-inch glass chimney, and if at any time the gas flame tails over the top of the glass a six-inch by two-inch chimney shall be used, or such other burner as shall for the time being be approved by the Board of Trade.

Testing place and notice of testing.

**29.** The testing place shall be the testing place already provided by the Commissioners at their offices at Bournemouth, and two hours previous notice shall be given to the Company of the time at which any testing shall be conducted.

Saving rights under certain agreements.

**30.** Nothing in this Act contained shall in any way prejudice or affect certain agreements dated respectively the 8th day of November 1876 and the 21st day of August 1877, and respectively made between the Company of the one part and the Bournemouth Commissioners of the other part.

Inspection of meters.

**31.** If either the Company or any such local authority shall dispute the accuracy of the registration of any meter, then such meter shall be tested by one of the official inspectors of the Metropolitan Board of Works, and the costs of such inspection shall abide the event.

Penalty for failure to supply gas to public lamps.

**32.** If and whenever the Company wilfully fail to supply gas as by this Act required to all or any of the public lamps within their gas limits, they shall, on a summary conviction before two justices, forfeit and pay to the local authority such a sum not exceeding twenty pounds for every offence as the justices think fit, and a further penalty not exceeding five pounds for every day after such conviction during which the offence continues.

Company to pay interest on deposit.

**33.** If any person is required by the Company to give them security for the payment of the price or rent of a meter, the Company shall pay interest after the rate of five pounds per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands.

Expenses of Act.

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

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## SCHEDULE referred to in the foregoing Act.

### Gas Lands.

A piece or parcel of land situate in the Bourne Valley in the county of Dorset, intersected by the stream called "Bourne Bottom," and comprising five acres or thereabouts, and coloured green upon the plan referred to in the Act of 1873, and signed by John Bonham-Carter, Esquire, the Chairman of the Committee of the House of Commons to whom the Bill for the Act of 1873 was referred.

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