CHAPTER lxxxv.

An Act to provide for the transfer of the undertaking of the Swanage Electricity Supply Company Limited to the Swanage Gas Company to confer further powers on the Swanage Gas Company and for other purposes. A.D. 1923.

[31st July 1923.]

WHEREAS by the Swanage Gas and Water Act 1901 the Swanage Gas and Water Company (whose name was changed to that of the Swanage Gas Company by virtue of the Swanage Gas and Water Act 1912 and who are in this Act called "the Company") were incorporated and were empowered to supply gas within the limits thereby prescribed and further powers have been conferred upon the Company by the Swanage Gas and Water Act 1912 the Swanage Gas Order 1915 (which was confirmed by the Gas and Water Orders Confirmation (No. 2) Act 1915) the Swanage Gas (Charges) Order 1922 and the Swanage Gas (Capital Issues) Consent 1922:

And whereas by the Swanage Electric Lighting Order 1906 which was confirmed by the Electric Lighting Orders Confirmation (No. 4) Act 1906 powers were conferred upon the undertakers therein named to supply electricity for public and private purposes in the urban district of Swanage and the undertaking authorised by that Order is now vested in the Swanage Electricity Supply Company Limited:

And whereas it is expedient to provide for the transfer to the Company of the undertaking of the Swanage Electricity Supply Company Limited upon and

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subject to such terms and conditions as may be agreed between those Companies :

And whereas the Company have erected gasworks upon part of the lands described in the second schedule to the Act of 1901 and it is expedient to empower the Company to erect on those lands and on certain adjoining lands works for the manufacture of gas and for the generation of electricity :

And whereas it is expedient to extend the limits of the Company for the supply of gas and the limits of the said Order of 1906 for the supply of electricity to authorise the Company to raise additional capital and to confer further powers upon them :

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

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

PART I.

PRELIMINARY.

Short and collective titles.

1—(1) This Act may be cited as the Swanage Gas and Electricity Act 1923.

(2) The Swanage Gas and Water Acts 1901 and 1912 the Swanage Electric Lighting Order 1906 the Swanage Gas Order 1915 the Swanage Gas (Charges) Order 1922 the Swanage Gas (Capital Issues) Consent 1922 and this Act may be jointly cited as the Swanage Gas and Electricity Acts and Orders 1901 to 1923.

Incorporation of Acts.

2. The following enactments (so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act (namely) :—

(1) The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters—

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 non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

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; and

The giving of notices:

(2) The Companies Clauses Act 1863 as amended by subsequent Acts:

(3) The Gasworks Clauses Act 1847 Provided that section 13 shall be read as if the words "or any premises" were inserted after the words "private building" and as if the words "Provided also that every such contract entered into by the Company shall be alike in terms and amount in like circumstances to all consumers" were added at the end of that section.

Interpretation.

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—

"The limits of supply" means the limits within which the Company are for the time being authorised to supply gas and electricity;

"The gas undertaking" and "the electricity undertaking" mean respectively the gas undertaking and the electricity undertaking of the Company;

"The Electricity Company" means the Swanage Electricity Supply Company Limited;

"The Act of 1901" "the Order of 1906" and "the Act of 1912" mean respectively the Swanage Gas and Water Act 1901 the Swanage Electric Lighting Order 1906 and the Swanage Gas and Water Act 1912.

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PART II.

TRANSFER OF ELECTRICITY UNDERTAKING.

Transfer of electricity undertaking.

4.—(1) The Electricity Company may by deed approved by the Electricity Commissioners transfer to the Company and the Company may accept a transfer of the undertaking of the Electricity Company upon and subject to such terms and conditions as may be agreed between the Company and the Electricity Company.

(2) Upon the transfer to the Company of the undertaking of the Electricity Company the rights powers authorities obligations and liabilities of the Electricity Company under the Order of 1906 shall by virtue of this Act and of the said deed be transferred to and vested in and may be exercised by and shall attach to the Company and the Company shall become the undertakers for the purposes of that Order:

(3) Provided that—

(*a*) the following area shall be substituted for the area of supply referred to in section 4 of the Order of 1906 and described in the first schedule to that Order (namely) the urban district of Swanage and the parishes of Langton Matravers and Studland in the rural district of Wareham and Purbeck all in the county of Dorset;

(*b*) the provisions of the first schedule to this Act shall be substituted for those contained in the fourth schedule to the Order of 1906.

(4) Within one month after the transfer to the Company of the undertaking of the Electricity Company the Company shall deposit at the office of the Electricity Commissioners an Ordnance map on a scale of not less than one inch to the mile showing the limits of supply.

Generating stations and appropriation of lands.

5.—(1) The Company may maintain alter improve enlarge extend and use or may discontinue the existing generating station of the Electricity Company and may appropriate and use for the purposes of their electricity undertaking any lands acquired for the purposes of their gas undertaking and may erect and use a generating station upon the lands described in the second schedule to this Act.

(2) Provided that nothing in this section shall—

(*a*) Relieve the Company from the necessity of obtaining the consent of the Electricity Commissioners under section 11 of the Electricity (Supply) Act 1919 to the establishment of a new or the extension of an existing generating station;

(*b*) Exonerate the Company from any indictment action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them.

Power to revoke powers where mains not laid.

6. If at the expiration of three years from the transfer of the electricity undertaking to the Company suitable and sufficient distributing mains shall not have been laid down in the parishes of Langton Matravers and Studland the Minister of Transport may if he thinks fit order that the powers of this Act with respect to the supply of electricity shall cease as to the whole or part of such parishes where such mains shall not have been laid and on any such order being made those powers shall cease accordingly.

Power to lay electric lines &c. in private streets.

7. The Company may upon the application of the owner or occupier of any premises within their area of supply abutting on or being erected in any street laid out or made but not dedicated to public use supply such premises with electricity and may lay down take up alter relay or renew in across or along such street such electric lines and apparatus as may be requisite or proper for furnishing such supply and the provisions of the Electricity (Supply) Acts 1882 to 1922 and of the schedule to the Electric Lighting (Clauses) Act 1899 so far as they are applicable for the purposes of this section shall extend and apply to and for the purposes hereof and to any works constructed or executed by the Company under the powers of this section.

Period of error in defective meters.

8.—(1) In the event of a meter of a construction and pattern approved by the Minister of Transport used by any consumer of electricity being proved to register erroneously 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.

(2) The amount of the allowance to be paid to or the surcharge to be made upon the consumer by the

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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 charges for electricity are recoverable by the Company.

Entry upon premises.

9.—(1) Any person who shall hinder an officer appointed by the Company from entering any premises in pursuance of section 24 (Power to enter lands or premises for acertaining quantities of electricity consumed or to remove fittings) of the Electric Lighting Act 1882 or from exercising the powers contained in that section shall be liable to a penalty not exceeding five pounds and such penalty shall be recoverable in manner provided by the Summary Jurisdiction Acts.

(2) Where any premises which the Company are entitled to enter in pursuance of the said section 24 are unoccupied the Company may after giving not less than forty-eight hours' notice to the owner thereof or if he is unknown to the Company and cannot be ascertained after diligent inquiry after affixing such notice upon a conspicuous part of the premises forcibly enter the same doing no unnecessary damage.

Electrical fittings.

10. The Company may provide let on hire repair remove and sell (but shall not manufacture) electric lines meters apparatus and fittings for lighting heating motive power or any other purposes for which electricity may be used and may provide all materials and do all work necessary or proper in that behalf and may demand take and recover such remuneration in money or such rents or charges for and may make such terms and conditions with respect thereto as may be agreed.

Power to recover charge for re-connection.

11. Any expenses reasonably incurred by the Company in re-connecting any electric line or other work through which electricity may be supplied which may have been lawfully cut off or disconnected by reason of any default of the consumer may be recovered by the Company in like manner as expenses lawfully incurred by them in such cutting off or disconnecting.

Notice to discontinue supply of electricity.

12.—(1) A notice to the Company from a consumer for the discontinuance of a supply of electricity shall not be of any effect unless it be in writing signed by or on behalf of the consumer and left with or sent by post to the Company.

(2) Notice of the effect of this section shall be endorsed upon any demand note for charges for electricity. A.D. 1923.

PART III.

GAS.

Extension of gas limits.

13. The limits within which the Company may supply gas shall extend to and include the parish of Studland in addition to the existing limits of supply and the Company may within that parish exercise the powers rights privileges and authorities and shall be subject to the duties and obligations which they have may exercise and are subject to within their existing limits for the supply of gas.

On failure of Company other undertakers may apply for powers.

14. If after the expiration of five years from the passing of this Act the Company have not laid down mains for the supply of gas in the parish of Studland the local authority of that district or any company or person may apply for an Act of Parliament or special order for the purpose of providing such a supply and for the repeal of the powers of the Company in that behalf.

Extension of gas lands.

15. The provisions of the Act of 1901 shall have effect as if the lands described in the second schedule to this Act were therein referred to instead of the lands described in the second schedule to that Act wherever those lands are mentioned.

Price of gas outside Swanage.

16. Notwithstanding anything contained in any enactment to the contrary the price to be charged by the Company for the supply of gas to any consumer outside the urban district of Swanage may exceed the price charged to a consumer within that district by not more than threepence per therm.

Amending obligations as to supply of gas.

17. Notwithstanding anything contained in any enactment to the contrary the Company shall not be obliged to give from any main a supply of gas for any purpose other than lighting or domestic use in any case where the capacity of such main is insufficient for such purpose or if and so long as any such supply would in the opinion of the Company interfere with the sufficiency of the gas required to be supplied by means of that main for lighting or domestic purposes.

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Fittings let on hire to remain Company's property.

18.—(1) Any fittings let for hire under the provisions of section 48 of the Act of 1901 notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises shall at all times continue to be the property of and removable by the Company provided that such fittings are marked or impressed with a sufficient mark or brand indicating the Company as the actual owners thereof.

(2) Nothing in this section shall affect the amount of assessment for rating of any premises upon which any fittings are or shall be fixed.

Mode of cutting off supplies.

19.—(1) In any case in which the Company are by virtue of any enactment relating to the gas undertaking authorised to cut off and discontinue the supply of gas to any premises in consequence of any default on the part of the occupier of the premises it shall be lawful for the Company without prejudice to any other remedy which may be lawfully available to them to disconnect at the meter the service pipe (whether belonging to the consumer or to the Company) and any person who shall reconnect such service pipe with the meter without the consent of the Company shall be deemed to commit an offence within the meaning of section 18 (Penalty for fraudulently using the gas of the undertakers) of the Gasworks Clauses Act 1847:

Provided that if and so soon as the matter complained of shall have been remedied nothing in this section shall prejudice or interfere with any rights vested in any person by virtue of section 11 (Undertakers to furnish sufficient supply of gas to owners and occupiers within the limits of the special Act) of the Gasworks Clauses Act 1871.

(2) For the purposes of this section the Company subject to the provisions of section 22 (Power to remove meter and fittings) of the Gasworks Clauses Act 1871 shall have and may exercise the like powers of entry as are exerciseable under that section.

Expenses of reconnecting supply.

20. In any case in which in consequence of any default on the part of the occupier of any premises the Company have cut off the supply of gas to such premises and the occupier so in default shall desire to resume such supply he shall pay to the Company the

expenses of reconnecting the supply and the Company shall not be under any obligation to supply gas to such occupier until he shall have made good the default and paid such expenses. A.D. 1923.

Provision of valve where high-pressure air is used.

21.—(1) Every consumer of gas supplied by the Company who uses air at high pressure for or in connection with the consumption of such gas (in this section referred to as "high-pressure air") shall if required to do so by the Company provide and fix in a suitable position and use an efficient valve or other appliance for preventing the admission of such air into the service pipe or any main through which such gas is supplied and shall at all times at his own expense keep in proper order and repair any such valve or other appliance as aforesaid which shall have been provided and fixed whether upon such requirement or otherwise.

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

(3) Every person who at the date of the receipt by him of any such demand note as is referred to in paragraph (*a*) of subsection (5) of this section is using high-pressure air shall within one month after that date give to the Company notice in writing of such use and if within one month after the giving of such notice the Company require the consumer giving the same to provide and fix such a valve or other appliance as aforesaid it shall not be lawful for him after the expiration of fourteen days from the receipt of the requirement to continue to use high-pressure air unless before such expiration he shall have complied with the requirement.

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

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

(*a*) (in the case of all persons who at the date of the passing of this Act are consumers of gas supplied

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by the Company) on the demand notes for gas charges payable to the Company issued next after that date; and

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

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

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

Power to lay pipes for ancillary purposes.

22.—(1) The Company may within the limits of supply lay down and repair take up relay or renew mains pipes and culverts for the purpose of procuring conducting or disposing of any oil or other materials used by them in or resulting from the manufacture of gas or any residual products thereof or for any purpose connected with their undertaking and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid so far as they are applicable for the purposes of this section shall extend and apply mutatis mutandis to and for the purposes thereof.

(2) Section 15 (For protection of London and South Western Railway Company) of the Act of 1912 shall mutatis mutandis extend and apply to the mains pipes and culverts by this section authorised to be laid down repaired taken up relaid or renewed and as if the name of the Southern Railway Company had been inserted therein in lieu of the London and South Western Railway Company.

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For protection of Swanage Urban District Council.

23. For the protection of the urban district council of Swanage (in this section called "the council") the following provisions shall unless otherwise agreed between the Company and the council have effect within the urban district of Swanage with reference to the powers of the Company relating to the supply of gas in addition to the other provisions for their protection and benefit in the Swanage Gas and Electricity Acts and Orders 1901 to 1923 (in this section referred to as "the Company's Acts") (that is to say):—

(1) Whenever it shall be found necessary by the Company in exercise of the powers of the Company's Acts to break up for the purpose of laying down gas mains any street or road not dedicated to public use in which is laid any pipe drain sewer tunnel or other work vested in the council the like notice and plan as are respectively required by sections 8 and 9 of the Gasworks Clauses Act 1847 to be given or sent to the persons having the control or management of any street or road shall be given and sent to the council and if the council notify in writing to the Company that any such pipe drain sewer tunnel or other work will or may be affected by the operations proposed to be carried out by the Company in such street or road the provisions of the said Act shall apply for the protection of such pipe drain sewer tunnel or other work and of the council in reference thereto as though the council were persons having the control and management of such street or road within the meaning of the said Act and in particular the Company shall cause a light sufficient for the warning of passengers to be set up and maintained at nights against such street or road when the same shall be opened or broken up:

(2) All new mains pipes and works (not being replacements of existing mains pipes and works) to be laid in along or across any street or road or in along or across any bridge or approach thereto vested in or repairable by the council shall be laid in such position in or at the side thereof as the council in writing under the hand

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of their surveyor (in this section referred to as "the surveyor") may reasonably direct:

(3) Where any mains pipes or works of the Company (other than service pipes) are to be laid or relaid beneath the surface of the roadway of any such street road bridge or approach as aforesaid the same shall be laid at such depth that not less than two feet six inches shall intervene between the surface of such roadway and the upper surface of such mains pipes or works except in cases where the surveyor consents to a less space intervening which consent shall not be unreasonably withheld:

(4) Except with the consent of the surveyor the Company shall not open a greater continuous length of street or road than one hundred yards nor shall they leave a less space than fifty yards between any two consecutive openings and they shall not open a greater length than fifty yards at any place where such opening would leave insufficient space for the passage of two vehicles abreast:

(5) In the application of the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the notice required by section 8 of that Act shall (except in cases of emergency in which cases the earliest possible notice shall be given) be not less than seven days instead of three days:

(6) The plan required by section 9 of the last-mentioned Act shall be accompanied by a section and description of the proposed works and shall be delivered by the Company to the council or the surveyor not less than seven days before they commence to open or break up any street or road or interfere with any bridge vested in or repairable by the council:

(7) Nothing in this Act contained shall interfere with the right of the council to alter the line or level of or improve in any manner they think fit any street or road in or along which any pipes of the Company shall have been laid and the Company shall on the expiration of one month after receiving notice in writing under the hand

of the clerk to the council or the surveyor so to do proceed to alter the position of any such pipes in the manner and to the extent prescribed by such notice or in case of difference determined by arbitration in the manner hereinafter prescribed and the expenses of any such alteration shall be paid to the Company by the council :

(8) Any difference under this section shall be referred to and determined by an engineer to be appointed by agreement between the Company and the council or failing such agreement by the President of the Institution of Civil Engineers on the application of either party and the provisions of the Arbitration Act 1889 shall apply to any such reference and any difference which may arise between the Company and the council under the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and which under those provisions is to be determined by two justices shall in like manner be determined by arbitration.

For protection of Ernest Burt.

24. For the protection of Ernest Burt or other the owner for the time being of the property known as "the Bungalow" Victoria Avenue Swanage (in this section referred to as "the owner") the following provision shall except so far as may be otherwise agreed in writing between the owner and the Company apply and have effect :—

Notwithstanding anything contained in the section of this Act of which the marginal note is "Extension of gas lands" the Company shall not erect any works for the manufacture or storage of gas or the generation of electricity on any part of the lands described in the second schedule to this Act situated to the south of a line drawn at a distance of one hundred and twenty feet from and parallel to the railway of the Southern Railway Company and the Company shall if required by the owner plant a row of trees along or near to the southern boundary of the said lands to the reasonable satisfaction of the owner.

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PART IV.

CAPITAL &C.

Additional capital.

25.—(1) The Company may from time to time with the consent of three-fourths of the votes of the shareholders present in person or by proxy at any general meeting of the Company convened with notice of the purpose create such further capital as the Company may think fit by the creation and issue of new ordinary or preference shares or stock:

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 after taking into account the premiums and discounts (if any) that may be obtained or allowed on the issue of shares or stock to produce the sum of forty thousand pounds except that with the consent of the Electricity Commissioners further capital may be created and issued for the purposes of the electricity undertaking.

(2) The period within which the Company shall deliver to the Commissioners of Inland Revenue the statement of the amount of any increase of nominal share capital required by section 113 of the Stamp Act 1891 shall be one month after the date of any resolution whereby the capital of the Company is increased.

Profits of Company on additional share capital limited.

26. The Company shall not in any one year pay any larger dividend on the additional capital to be raised under the powers of this Act than eight 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 eight pounds per centum per annum or than seven pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

New stock to be sold by auction or tender.

27.—(1) All ordinary and preference shares or stock hereafter created by the Company shall be issued in accordance with the provisions of this section.

(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 district council of every district wholly or partly within the limits of supply and to the secretary of the London Stock Exchange at least seven 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:

(*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 such manner as may be prescribed in a resolution passed by the directors of the Company and to the employees of the Company and to the consumers of gas or electricity supplied by the Company in such proportions as the directors of 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

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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 the foregoing provisions of this section and are not sold shall again be 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 shares or stock sold the total amount obtained as premium (if any) and the highest and lowest prices obtained for the shares or stock as the case may be.

(6) Sections 22 to 25 of the Act of 1901 are hereby repealed.

Power to offer additional capital by subscription.

28.—(1) Notwithstanding anything in the immediately preceding section of this Act the Company may with the consent of the Board of Trade and subject to such conditions as that Board may think fit to impose offer for subscription by the public the whole or any part of the additional capital authorised by this Act and the Company may upon any such offer pay a commission not exceeding five per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such capital or procuring or agreeing to procure subscriptions whether absolute or conditional for any such capital.

(2) The payment of such commission as aforesaid and the amount or rate per centum of the commission paid or agreed to be paid shall be disclosed in every prospectus advertisement or other document of the Company inviting subscriptions for such capital.

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

Power to borrow.

29. The Company may from time to time subject to the provisions of this Act borrow on mortgage of their undertaking any sum or sums not exceeding in the whole one half of the amount of the additional capital which at the time of borrowing has been created and issued under the powers of this Act but no sum shall be borrowed in respect of any capital so raised until the Company

shall have proved to a justice of the peace before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the stock at the time issued together with any premiums realised on the sale thereof has been fully paid up.

Priority of mortgages over other debts.

30. 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 Acts or in respect of any rent or sum reserved 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.

Application of capital.

31.—(1) All money raised under this Act including premiums shall be applied only to purposes to which capital is properly applicable and any sum of money which may arise by way of premium from the issue of shares or stock under the provisions of this Act shall not be considered as part of the capital of the Company entitled to dividend.

(2) The Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they are already authorised to raise.

Minimum amounts of holdings of stock.

32.—(1) Any ordinary stock preference stock or debenture stock of the Company may be issued and held in amounts of one pound or of any multiple of one pound but with a minimum holding of ten pounds and not otherwise and the Company shall not be under any obligation to register a transfer of any such stock which would reduce the holding of stock of that class of the transferor below or make the holding of stock of that class of the transferee less than ten pounds.

(2) Notice of this enactment so far as applicable shall be stated in all certificates of ordinary or preference stock or debenture stock of the Company as the case may be.

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Separate accounts of gas and electricity undertakings.

33.—(1) Separate capital and revenue accounts shall be kept of the gas undertaking and the electricity undertaking.

(2) The gas undertaking and the electricity undertaking respectively shall be duly credited and debited with the receipts and payments exclusively attributable thereto.

(3) The Company shall credit the capital account of the gas undertaking with the value of all land acquired for the purposes of that undertaking and used for the purposes of the electricity undertaking.

(4) The expenses of direction and management and any expenses common to both the gas undertaking and the electricity undertaking shall from time to time be apportioned between them as nearly as conveniently practicable in proportion to the amount of capital for the time being expended on the gas undertaking and the electricity undertaking respectively.

PART V.

MISCELLANEOUS PROVISIONS.

Change of name of Company.

34. Subject to the provisions of Part IV. (relating to change of name) of the Companies Clauses Act 1863 the name of the Company shall as from the passing of this Act be the "Swanage Gas and Electricity Company."

Quorum of directors.

35. When the number of directors is less than five the quorum of a meeting of directors shall be two.

Notice of candidature of director or opposition to re-election of director.

36. No person not being a retiring director of the Company shall be eligible to be elected at any general meeting a director of the Company unless notice in writing is given to the secretary or left at the principal office of the Company fourteen days at least before the day of election that such person will be proposed for election as a director of the Company and the secretary of the Company shall during such fourteen days and on the day of election fix a copy of every such notice so delivered in some conspicuous place in such office Any such person must have been the holder of the qualifying amount of shares or stock for at least three months prior to his

election In the case of a retiring director or directors notice of opposition to his or their re-election shall be given in like manner.

As to appointment of proxies.

37. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder or stockholder duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder or stockholder and for that purpose may execute on behalf of the shareholder or stockholder the necessary form of proxy Provided that the instrument appointing the attorney shall be transmitted to the secretary of the Company at the same time as or before the instrument appointing the proxy.

Joint holders.

38. Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares or stock any one of those persons may vote at any meeting either personally or by proxy in respect of the shares or stock as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares or stock shall alone be entitled to vote in respect thereof Several executors or administrators of a deceased member in whose name any shares or stock stands shall for the purposes of this section be deemed joint holders thereof.

Remuneration of secretary.

39. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 or otherwise they may from time to time determine the remuneration of the secretary of the Company.

Notice as to persons seeking election as auditors.

40. No person not being a retiring auditor of the Company shall be eligible to be elected at any general meeting an auditor of the Company unless notice in writing be given to the secretary or left at the principal office of the Company fourteen days at least before the date of such meeting that such person will be proposed for election as an auditor of the Company and the secretary shall on receipt of any such notice send a copy thereof to the retiring auditor and during such fourteen days and on the day of election fix a copy of such notice in some conspicuous place in such office.

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As to appointment of managing director.

41.—(1) The directors may appoint one or more of their body to be a managing director or managing directors of the Company either for a fixed term or without any limitation as to time and may remove or dismiss him or them from office and appoint another or others in his or their place or places.

(2) A managing director shall not while holding that office be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall ipso facto immediately cease to be a managing director.

(3) The remuneration of a managing director shall from time to time be fixed by the directors and may be by way of salary or commission or participation in profits or by any or all of those modes.

(4) The directors may entrust to and confer upon any managing director such of the powers exerciseable by the directors and subject to such conditions as they may think fit and may from time to time revoke withdraw alter or vary all or some of such powers.

Authentication and service of notices &c.

42. Any notice to be served by the Company on a person supplied with gas shall be sufficiently authenticated by the signature of the secretary of the Company or other officer of the Company for the time being authorised by the directors thereof being affixed thereto in writing or by a stamp or if it be a notice to pay any charge in respect of a supply of gas or electricity or fittings or appliances by the name either of the secretary or such other officer as aforesaid being affixed thereto in writing or in print or by a stamp and any such notice may be served on such person either personally or by sending the same through the post by a prepaid letter addressed to him by name at his last known or usual place of abode or business or by delivering the same to some inmate at his last known or usual place of abode or business or to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after proper inquiry unknown it shall in the case of any notice not being a notice to pay any charge be sufficient to affix such notice or a copy thereof upon some conspicuous part of such premises.

For further protection of Swanage

43. For the protection of the urban district council of Swanage the following provisions shall unless other-

wise agreed between the Company and the said council have effect (that is to say):— A.D. 1923.

Urban District Council.

(1) Notwithstanding anything in the Order of 1906 or the Electricity (Supply) Acts 1882 to 1922 the Company shall not place any electric line as defined by those Acts above ground in or across any of the following streets roads or places Burlington Road Cliff Avenue Cranborne Road De Moulham Road High Street Institute Road Park Road Shore Road Ulwell Road Victoria Road Rempstone Road Victoria Avenue East and West and Walrond Road in the urban district of Swanage or in or across any street road or place in that urban district in which electric lines were laid underground at the date of the passing of this Act without the consent in writing of the urban district council of Swanage who may give such consent on such terms and conditions as may be agreed between that council and the Company:

(2) The Company shall not erect any works for the manufacture or storage of gas or the generation of electricity on any part of the lands described in the second schedule to this Act situated to the south of a line drawn at a distance of one hundred and twenty feet from and parallel to the railway of the Southern Railway Company.

For protection of Dorset County Council.

44. For the protection of the council of the administrative county of Dorset (in this section referred to as "the council") the following provisions shall unless otherwise agreed in writing between the Company and the council apply and have effect (that is to say):—

(1) All mains pipes cables and other works laid by the Company in or along any main road or in upon or across any county or main road bridge (which word shall in this section include bridge approaches) shall be laid in such position and if under the metalled portion thereof at such depth as the council in writing under the hand of their clerk may reasonably require:

(2) In the application of the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the notice required by section 8 of the said

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Act shall as regards any such main road or county or main road bridge be not less than seven days instead of three days:

(3) The plan required by section 9 of the said Act shall be accompanied by a description of the proposed works in the case of any main road and by a section in the case of any county or main road bridge and shall be delivered to the council or their surveyor by the Company not less than fourteen days before they commence to open or break up any main road or interfere with any county or main road bridge for the purpose of executing the works:

(4) Nothing in this Act shall authorise the Company to interfere with the structural part of any county or main road bridge without the consent in writing of the council under the hand of their clerk which consent shall not be unreasonably withheld and may be given upon such conditions as the council may reasonably determine Provided that the council shall not be entitled to require as a condition of giving their consent under this subsection the payment to them by the Company of any money other than the amount of any expenses which the Council may reasonably incur by reason or in consequence of any such interference as aforesaid but nothing in this proviso shall preclude the council from requiring the Company as a condition of giving such consent as aforesaid to make good at the expense of the Company any damage caused by them to the structure of any such bridge as aforesaid:

(5) Nothing in this Act contained shall interfere with the right of the council to alter the level of or deviate or improve in any manner they think fit any main road in or along which any mains pipes cables or works of the Company shall have been laid The Company shall within one month after receiving notice in writing under the hand of the clerk or surveyor to the council so to do alter the position of any mains pipes cables or works as shall have been laid down or constructed since the passing of this Act in the manner and to the extent prescribed by such

notice or as in case of difference shall be determined by arbitration in the manner hereinafter provided Any expense incurred by the Company in altering the position of any mains pipes cables or works in consequence of the alteration deviation or improvement by the council of any main road shall be repaid to them by the council If the Company shall after reasonable notice from the council under the hand of their surveyor neglect to do or complete any work or act required by this subsection to be done by the Company then and in such case the council may do such work or act themselves under the superintendence (if given) of the Company completing the same with all reasonable expedition and in a proper and workmanlike manner and causing as little damage or inconvenience to the Company as circumstances admit :

(6) Nothing in this Act contained shall limit the right of the Council at any time or times to remove alter or rebuild any county or main road bridge over near or attached to which any mains pipes cables or works of the Company are carried in the same manner as they might have removed altered or rebuilt such bridge if this Act had not been passed and such mains pipes or works had not been laid over or near or attached to such bridge and the council shall not make any compensation to the Company for any expense or loss to which the Company may be put in consequence of the reasonable exercise of such right and in the event of any such bridge over or near or attached to which any such mains pipes cables or works are laid being removed altered or rebuilt as aforesaid the Company shall if required by the surveyor of the council at their own cost alter the position of any works by which such mains pipes cables or works are carried over or near or attached to such bridge Provided that during the removal alteration or rebuilding of such bridge the Council shall afford all reasonable facilities for temporarily carrying such mains pipes and works across such bridge overhead or at the side thereof in such a manner as will not be a danger or inconvenience to the

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public and so as not to interrupt the continual supply of gas or electricity through such mains pipes cables or works and the Company may carry such mains pipes cables or works accordingly :

(7) All works of the Company so far as they affect any main road and county or main road bridge shall be so executed by the Company so far as reasonably practicable as not to stop impede or interfere with the traffic on such road or bridge and the Company shall not without the consent of the county surveyor open or break up at any one time a greater continuous length than one hundred yards of any such road :

(8) The Company shall pay to the council the reasonable costs which the council may incur in the repair and reinstatement of so much of any main or other road or part thereof of which the county council are or may become responsible for the maintenance or of the road over any county bridge in which the mains pipes cables or works of the Company are or may be laid as may be damaged by reason of the traffic being concentrated thereon during the laying alteration renewal or repair of the said mains pipes or works :

(9) The Council shall not except in case of their negligence be liable for or in respect of any damage or injury done to any main pipe cable or work of the Company in or upon the metalled portion of any main road or any main road or county bridge arising from the use by the Council in the exercise or performance of their powers or duties in regard to the maintenance and repair of roads or bridges of a steam or other roller or traction engine not exceeding fifteen tons in weight :

(10) If any difference arises at any time between the council and the Company touching this section or anything to be done or not to be done thereunder or the giving or withholding of any consent or the conditions of giving the same or any direction such difference shall be settled by an engineer as arbitrator to be agreed on between the council and the Company and failing agree-

ment to be appointed by the President of the Institution of Civil Engineers on the application of either party and the provisions of the Arbitration Act 1889 shall apply to such arbitration and any difference which may arise between the Company and the council under the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and which under those provisions is to be determined by two justices shall in like manner be determined by arbitration.

Application of Act of 1912.

45. The following provisions of the Act of 1912 shall extend and apply to the exercise of the powers of this Act as if the same with the necessary modifications were re-enacted in this Act namely:—

Section 46 (Preference shareholders not to vote);
Section 47 (Proportionate reduction of dividends in certain cases);
Section 50 (Application of premium arising on issue of shares or stock);
Section 52 (Existing mortgages to have priority);
Section 53 (For appointment of receiver);
Section 56 (Debenture stock);
Section 63 (Recovery of demands).

Costs of Act.

46. All costs charges and expenses of and incident 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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The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

MAXIMUM PRICES.

In this schedule—

The expression "unit" shall mean the energy contained in a current of one thousand ampères flowing under an electro-motive force of one volt during one hour.

SECTION 1.

Where the undertakers charge any consumer by the actual amount of energy supplied to him they shall be entitled to charge him at the following rates per quarter :—

(*a*) In respect of the quarters ending on the thirty-first day of March and the thirty-first day of December—

For any amount up to fifteen units fifteen shillings and for each unit over fifteen units tenpence if the consumer's premises are wholly situate in the urban district of Swanage and one shilling if they are not wholly situate in that district :

(*b*) In respect of the quarters ending on the thirtieth day of June and the thirtieth day of September—

For any amount up to ten units ten shillings and for each unit over ten units tenpence if the consumer's premises are wholly situate in the urban district of Swanage and one shilling if they are not wholly situate in that district.

SECTION 2.

Where the Undertakers charge any consumer by the electrical quantity contained in the supply given to him they shall be entitled to charge him according to the rates set forth in section 1 of this schedule the amount of energy supplied to him being taken to be the product of that electrical quantity and the declared pressure at the consumer's terminals that is to say such a constant pressure at those terminals as may be declared by the undertakers under the regulations of the Electricity Commissioners.

THE SECOND SCHEDULE.

GAS AND ELECTRICITY LANDS.

(*a*) A piece of land situate in the parish of Swanage in the county of Dorset occupied by gasworks and containing two thousand three hundred square yards or thereabouts bounded on the north and east by a stream of water dividing the said land from a farm called "Prospect Farm" on the south-east and south by Victoria Avenue and on the west by a road leading from Herston to Prospect Farm.

(*b*) A piece of land situate in the said parish of Swanage belonging or reputed to belong to the Company containing six acres three roods and eight perches or thereabouts comprising the lands numbered 170 171 and 175 on the $\frac{1}{2500}$ Ordnance map edition 1902 and bounded on the north by a stream of water on the east by Victoria Avenue and the road leading from Herston to Prospect Farm on the south by the railway of the Southern Railway Company and on the west by the boundary of the said parish.

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