

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1911.

A BILL

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows :—

Preliminary.

- 1.** This Act may be cited as the " Gas Act, 1911." This Act shall commence and take effect on and from the day of , one thousand nine hundred and .

- 2.** In this Act, unless the context requires another meaning,—
- “ Gas company ” means any company, corporation, firm, or person supplying gas, to which or whom this Act applies, but does not include a local authority.
 - “ Gasworks ” means works of a gas company, and the works connected therewith.
 - “ Local authority ” means council of a municipality or shire.

Application of Act.

3. This Act applies to all gas companies which do at the commencement of this Act, or may at any time thereafter, supply gas within the metropolitan police district.

The Governor, by proclamation in the Gazette, may extend the application of this Act to gas companies supplying gas within any district mentioned or described in such proclamation, and may revoke or alter any such proclamation.

Testing of gas.

4. (1) The quality of the gas supplied by a gas company shall, with respect to its illuminating power, be such as to produce at a testing-place provided in conformity with this Act, when burned at the rate of five cubic feet per hour, a light equal in intensity to the light produced by sixteen sperm candles of six to the pound, each consuming one hundred and twenty grains of sperm per hour, and in making the test, two candles shall be used together.

Such gas shall, as to its purity, not exhibit any trace of sulphuretted hydrogen, when tested in accordance with this Act.

(2) The apparatus to be used for testing, and the method of testing the illuminating power of the gas, and the presence of sulphuretted hydrogen in the gas, shall be as prescribed in Schedule to this Act.

(3) A gas company shall provide testing-places, at places approved by the Minister, and all the apparatus required by this Act, for the testing of its gas, and shall at all times keep the same in proper order and repair.

(4) The method of testing shall be as prescribed by Schedule to this Act.

5. If on any day the gas supplied by any gas company at any testing-place is of less illuminating power than as above prescribed, the company shall be liable to penalties as follows:—

For the first half of a candle of defective power not exceeding *forty* shillings.

For the first and every subsequent candle of defective power, not less than *twenty-five* pounds and not exceeding *one hundred* pounds: Provided

Provided that where one penalty is imposed in respect of defective illuminating power in the gas supplied by the company at one testing-place on any day, no further penalty may be imposed in respect of defective illuminating power in the gas supplied by the company at any other testing-place on the same day.

6. If on any day the gas supplied by a gas company at any testing-place is of less purity than it ought to be, the company shall be liable to a penalty not exceeding *fifty* pounds for each occasion on which it is so in default :

Provided that where one penalty is imposed in respect of excess of impurity in the gas supplied by the company at any other testing-place on the same day :

Provided also that the average of the testings made at such testing-place on that day, and on the preceding and on the following day shall be deemed to represent the purity of such gas on such day at such testing-place.

Pressure of gas.

7. (1) All gas supplied by a gas company to any consumer of gas shall, except in case of accident, be supplied at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch in height, and to balance from sunset to midnight a column of water not less than one inch in height at the main or as near as may be to the junction therewith of the service pipe supplying the consumer.

(2) Any gas examiner may at a testing-place, or at any public lamp, as and when he thinks fit, test the pressure at which the gas is supplied. The gas company shall afford to the examiner all reasonable facilities for making the test.

For the purpose of the test the examiner shall connect a self-registering pressure gauge to the lamp-cock by a flexible or other suitable pipe, which shall be gas-tight, and such pressure gauge shall be as nearly as practicable at the same level, as the lamp-cock.

8. If at any time during any period between midnight and sunset, or during any period between sunset and midnight, the gas supplied by a gas company is supplied at a pressure less than that above-prescribed, the company shall in each case be liable to a penalty not exceeding *ten* pounds.

Provided that where a penalty is imposed in respect of insufficiency of pressure in the gas supplied by the company during any period of twenty-four hours, no further penalty may be imposed in respect of insufficiency of pressure in the gas supplied by the company during the same period.

Saving

Saving as to penalties.

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

Gas examiners.

10. The Governor may appoint competent persons to be gas examiners.

Such examiners may at any reasonable hours test the illuminating power, purity, and pressure of the gas supplied by any gas company, and for that purpose may enter any land or premises of any such company.

Such company may, if it thinks fit, on each occasion of such testing, be represented by some person appointed by it, but such person shall not interfere in the testing.

Any such tests shall be made in accordance with the provisions of this Act.

11. A gas examiner shall, on the day immediately following that on which the testing has been conducted, make and deliver a report to be filed in the office of the Minister of the results of his testing, and deliver a copy of such report to the gas company.

12. A gas company and its officers and servants shall give to a gas examiner and to his assistants access to the testing-place, and shall attend all facilities for the proper execution of this Act.

If any such company or any such officer or servant fails to comply with the provisions of this section, it or he shall be liable to a penalty not exceeding *ten* pounds.

Standard rate of dividend.

13. Except as by this Act provided, the profits of any gas company to be divided among the holders of its ordinary share, capital, or stock in any year shall not exceed the following rate (which is in this Act referred to as the standard rate of dividend), that is to say, on the capital of the company at the rate of four pounds in respect of every one hundred pounds actually paid up of such capital :

Provided that where any gas company which at the commencement of this Act is carrying on the business of supplying gas has during any of the five years next preceding such commencement paid to the holders of its ordinary share, capital, or stock as a dividend at a higher

higher rate than the standard rate as above prescribed, the Minister shall certify the mean rate of dividend so paid during such years, and thereupon the standard rate of dividend with respect to such company shall be the mean between the rate of four per centum as above prescribed and the rate so certified by the Minister.

14. (1) The directors of a gas company may, if they think fit, in any year appropriate out of the revenue of the company, as part of the expenditure on revenue account, any sum not exceeding an amount equal to one per centum of the paid-up capital of the company, including premiums, to a fund to be called "the special purposes fund."

(2) The special purposes fund shall be applicable only to meet such charges as a chartered accountant or incorporated accountant being the auditor of the company or appointed for the purpose by the Minister approves, as being—

- (a) expenses incurred by reason of accidents, strikes, or circumstances which due care and management could not have prevented; or
- (b) expenses incurred in the replacement or removal of plant or works, other than expenses requisite for maintenance and renewal of plant and works.

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

(4) The moneys forming the special purposes fund or any portion thereof may be invested in securities in which directors of the company are authorised by law to invest, or may be applied for the general purposes of the company to which capital is properly applicable, or may be used partly in one way or partly in the other.

(5) Resort may from time to time be had to the special purposes fund, notwithstanding that the sum standing to the credit of the fund is, for the time being, less than the maximum allowed by this section.

15. When in any year the rate of dividend on the ordinary share capital or stock of a gas company exceeds the standard rate, by reason of the price charged by the company for gas in such year being below the standard price, then, out of the amount of the divisible profits of the company applicable to the payment of such excess of dividends, the directors of the company may in such year set apart such sum as they think fit by way of a reserve fund.

All sums (if any) so set apart and any reserve or other fund of a similar character of the company existing at the specified date may be invested in Government or other securities, and the dividends and interest

interest arising from such securities may also be invested in the same or the like securities in order that the same may accumulate at compound interest.

The fund so formed shall be called "the reserve fund" and shall be applicable to the payment of dividend in any year in which the clear profits of the company are insufficient to enable the company in such year to pay the authorised rate.

Save as by this section specially provided no sum shall in any year be carried by the company to any reserve fund :

16. If the clear profits of the company in any year amount to a larger sum than is sufficient to pay the dividend on the preference capital and the dividends at the authorised rates on the ordinary capital of the company the excess shall be carried to the credit of the divisible profits of the company for the next following year :

Provided that the sum standing to the credit of such divisible profits shall not at any time exceed the amount required to pay one year's dividend at the authorised rate on the preference and ordinary capital of the company.

Sliding scale.

17. Notwithstanding anything contained in any Act or any memorandum or articles of association the standard price to be charged by a gas company for gas supplied by it to private consumers by meter shall be at the rate of three shillings and ninepence per thousand cubic feet.

Provided that the company may increase or reduce the price so charged by them for gas, above or below the standard price, subject to a reduction or increase in the dividend payable by the company on the ordinary capital of the company, as follows :—

In respect of any year during any part of which the price charged by the company has been one penny or part of a penny above the standard price, the dividend payable by the company shall in respect of each penny or part of a penny by which the price has been increased, be reduced below the standard rates of dividend by five shillings on every one hundred pounds of ordinary paid-up capital, and so on in proportion for any fraction of one hundred pounds.

And in respect of any year during the whole of which the price charged by the company has been one penny or more below the standard price, the dividend payable by the company may, in respect of each penny by which the standard price has been reduced be increased above the standard rates of dividend by five shillings on every one hundred pounds of ordinary paid-up capital, and so in proportion for any fraction of one hundred pounds.

Issue

Issue of additional shares.

18. Notwithstanding the provisions of any Act, or of any memorandum, or article of association relating to a gas company, the issue after the commencement of this Act of any shares in such company shall be subject to the following provisions:—

- (a) All shares so to be issued shall be offered for sale by public auction or tender.
- (b) Notice of the intended sale shall be given to the Minister at least twenty-eight days before the day of auction on the last day for the reception of tenders, as the case may be, and shall also be advertised once in each of two consecutive weeks in one or more daily newspapers published in Sydney.
- (c) A reserve price shall be fixed, and notice thereof shall be sent by the company in a sealed letter, to be received by the Minister not less than twenty-four hours before, but not to be opened until after the day of auction, or last day for the receipt of tenders, as the case may be.
- (d) No lot offered for sale shall comprise shares of greater nominal value than one hundred pounds.
- (e) 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.
- (f) 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.
- (g) 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, and to the employees of the company, and to the consumers of gas 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 exceeds 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.
- (h) Any shares or stock which may have been offered for sale in accordance with the foregoing provisions of this section, 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

unsold may be otherwise disposed of at such price and in such manner as the directors of the company may determine for the purpose of realising the best price obtainable.

- (i) As soon as possible after the conclusion of the sale or sales the company shall send a report thereof to the Minister, 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.

19. Every gas company shall cause to be filled up and forwarded to the Minister, on or before the thirty-first day of March in each year, an annual statement of accounts, made up to the thirty-first day of December then next preceding, as near as may be in the form, and containing the particulars specified in Schedule to this Act.

The company shall keep copies of such annual statement at its office, and sell the same to any applicant at a price not exceeding one shilling for each copy.

The Minister, with the consent of any such company, may alter the said forms for the purpose of adapting them to the circumstances of the company, or of better carrying into effect the objects of this section.

If any such company makes default in complying with the provisions of this section, it shall be liable to a penalty not exceeding *two* pounds for each day during which such default continues.

20. (1) The Auditor-General may, of his own motion, and shall at the request in writing, of not less than *twelve* users of the gas of any gas company, examine and audit, or cause any officer of the public service appointed by him in that behalf to examine and audit the accounts of such gas company, and for the purposes of such audit, examine any books and documents relating to such accounts.

(2) If any person obstructs the Auditor-General, or any officer appointed by him, in the exercise of his powers, or the performance of his duties under this section, or without lawful excuse, refuses to produce any book, account, document, writing, paper, or instrument in his possession or under his control, or to answer any question asked by the Auditor-General or such officer, for the purpose of the exercise of such powers or performance of such duties, he shall be liable to a penalty not exceeding *twenty* pounds.

21. Any penalties under this Act may be imposed and recovered by or before a stipendiary or police magistrate, or any two justices in petty sessions.

SCHEDULES.
