CHAP. xiv.

An Act to enable the Commissioners of Police of the Burgh of Broughty Ferry to purchase the Gasworks of the Broughty Ferry Gaslight Company, and to supply Gas within the said Burgh and District. [12th May 1870.] A.D. 1870.

WHEREAS Broughty Ferry and West Ferry, in the county of Forfar, have been constituted a burgh by the name of the Burgh of Broughty Ferry, under the provisions of "The General Police and Improvement (Scotland) Act, 1862," and Commissioners have been elected for carrying out the objects and purposes of the said Act: 25 & 26 Vict. c. 101. (*Public.*)

And whereas certain provisional orders have been made and confirmed by Parliament for vesting in the said Commissioners the powers, rights, and jurisdiction of the Statute Labour Road Trustees, and for providing police courts and constables within the said burgh: 31 & 32 Vict. c. xii. 32 & 33 Vict. c. clviii.

And whereas for some years past portions of the said burgh and district have been lighted with gas without the authority of Parliament by a company or association styled the Broughty Ferry Gaslight Company, established in the year one thousand eight hundred and thirty-nine:

And whereas the said Commissioners have certain powers conferred upon them by the said Act with regard to the public lighting of their burgh and district, and it is expedient that they should also have power to acquire the undertaking of the said company on the terms and conditions herein-after specified, and to manufacture and supply gas for all purposes:

And whereas the objects aforesaid 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 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:

A.D. 1870.

Short title.

1. This Act may for all purposes be cited as "The Broughty Ferry Commissioners Gas Act, 1870."

8 & 9 Vict. c. 19. and 23 & 24 Vict. c. 106. incorporated.

2. "The Lands Clauses Consolidation (Scotland) Act, 1845" and "The Lands Clauses Consolidation Acts (Amendment) Act, 1860" shall, except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, be incorporated with and form part of this Act.

Part of 10 & 11 Vict. c. 16. incorporated.

3. The provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the Commissioners, shall (except sections eighty-four and eighty-five, and except where expressly varied by this Act) be incorporated with this Act, and applied to the money borrowed and mortgages granted under the powers of this Act.

10 & 11 Vict. c. 15. incorporated.

4. "The Gasworks Clauses Act, 1847," except the clauses thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, shall (except where expressly varied by this Act) be incorporated with and form part of this Act.

Same Meanings to Words in incorporated Acts as in this Act.

5. The several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction: Provided always, That in the Acts wholly or partially incorporated with this Act, and also in this Act, the expression "the special Act" shall mean this Act, the expression "the Police Act" shall mean "The General Police and Improvement (Scotland) Act, 1862;" the expressions "the undertakers," "the promoters of the undertaking," or "the Commissioners," shall mean the Broughty Ferry Police Commissioners; the expression "the undertaking" shall mean the gasworks, business, property heritable and moveable, plant, pipes, meters, and other assets of the company, to be purchased and vested in the Commissioners under the provisions of this Act; and the word "street" shall mean and include street, highway, quay, wharf, bridge, railway crossing, bridleway, footway, carriageway, side pavement, turnpike, statute labour, or other road, thoroughfare, lane, passage, square, court or place within the limits of this Act.

Interpretation of terms

6. The following words and expressions in this Act shall have the several meanings hereby assigned to them; (that is to say,)

"Burgh" shall mean the burgh of Broughty Ferry, according to its present boundaries, and also according as its boundaries may from time to time hereafter be revised and extended:

"Commissioners" shall mean the Commissioners acting in and for the burgh of Broughty Ferry under the Police Act and this Act:

"Lands and heritages" shall have the same meaning as is assigned to that expression in the public Act seventeenth and eighteenth Victoria, chapter ninety-one, intituled "An Act for the Valuation of Lands and Heritages in Scotland:"

"The company" shall mean the Broughty Ferry Gaslight Company;"

"Shareholder" or "shareholders" shall mean shareholder or shareholders, or holder or holders of stock, of the Broughty Ferry Gaslight Company, and shall include persons, companies, and corporations:

"Persons" shall include companies and corporations:

"Annuity" or "annuities" shall mean the annuities payable under this Act, or any of such annuities:

"Annuitant" or "annuitants" shall mean any person or persons entitled to and holding annuities payable under this Act:

"Sheriff" shall mean the sheriff of the county of Forfar, or any of his substitutes, unless otherwise herein provided for:

"Treasurer" shall mean the treasurer for the time being of the Commissioners, or any person specially appointed by them to act as treasurer under this Act:

"Clerk" shall mean the clerk appointed by the Commissioners in pursuance of section sixty-seven of the Police Act.

Act to be executed by Commissioners.

7. This Act shall be carried into execution by the Commissioners, with the powers and indemnities and according to the provisions of the Police Act, and that Act shall, in relation to the Commissioners and the several objects and purposes of this Act, be read and construed as if the purposes and provisions of this Act were purposes and provisions of the Police Act, so far as the same shall be applicable thereto, and except so far as any of the provisions of the Police Act are expressly varied, altered, or otherwise provided for by this Act.

Power to Commissioners to appoint Committee.

8. The Commissioners may from time to time appoint a committee out of their own number (to be called "the Gas Committee") for the execution of any of the purposes of this Act, and may from time to time remove any member of the committee and appoint another Commissioner in his room, and may delegate to any committee such of the powers and authorities of the Commissioners as the Commissioners think fit; and where such powers and authorities are not specially limited and defined by the Commissioners, every committee shall have and may exercise all powers

A.D. 1870.

and authorities necessary to enable them to transact the business committed to them; and the acts and proceedings of the committee within the limits of such delegation shall be deemed the acts and proceedings of the Commissioners, and the quorum of such committees shall, unless where otherwise declared, be three, and the convener thereof shall be chairman; and the Commissioners may from time to time make such regulations as they think fit for the guidance of the committees.

Meetings of committee.

9. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they think proper, for carrying into effect the purposes of their appointment; and at all meetings of the committee one of the members present shall, in the absence of the convener, be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and, in case of an equal division of votes, the chairman shall have a casting vote in addition to his vote as a member of the committee.

Vacancies not to invalidate acts of Commissioners.

10. No proceeding of the Commissioners or of any committee shall be invalidated or be illegal in consequence of there being any vacancy or vacancies in the number of Commissioners at the time of such proceeding.

Minutes of proceedings.

11. The Commissioners shall cause entries of all the proceedings of the Commissioners and of every committee appointed by them, with the names of the Commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the Commissioners, and every such entry shall be signed by the chairman of the meeting at which the proceedings took place; and such entry so signed, or a copy thereof certified by the clerk, shall be received as evidence in all courts and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being Commissioners or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the Commissioners, or of any mortgagee of the property of the Commissioners, or of any annuitant.

Contract for supply of gas not to disqualify Commissioners.

12. No person shall be disqualified from being, continuing, or acting as a Commissioner by reason of his being concerned in any contract entered into with the Commissioners for the supply

of Gas, or of his being a mortgagee of the Commissioners, or an annuitant.

Payment of Rates not to disqualify any Judge.

13. No person liable under this Act in payment of rates or other consideration in respect of a supply of Gas shall on that account, or on account of being a Commissioner, be disqualified from acting as a justice of peace or sheriff, or exercising any judicial or other function in the carrying out of this Act.

Books and accounts to be kept.

14. The treasurer shall keep separate and distinct books and accounts altogether apart from and unconnected with the other accounts and books of the Commissioners; and such books and accounts shall contain a full and accurate record of all moneys received and paid by the treasurer or the servants of the Commissioners under the powers and provisions of this Act.

Accounts to balanced.

15. The accounts to be kept by the treasurer shall be brought to a balance on the thirty-first day of May in each year, for the year immediately preceding, and shall be audited within thirty days thereafter, and shall be submitted, along with the auditor's report, to the general meeting of the Commissioners, which must be held upon the second Monday of July annually, at which meeting the accounts shall be examined, and an abstract statement and account, authenticated by the docquet and subscription of the chairman of the meeting and the clerk, shall be printed, and a copy thereof delivered to each Commissioner at latest six days prior to the general meeting of the Commissioners, which must be held on the second Monday of October annually.

Auditor to be appointed.

16. In the month of May of the year one thousand eight hundred and seventy, and of every year thereafter in which application shall be made to him, the sheriff shall, on the application of the Commissioners, or of any three annuitants, appoint for the financial year then current an auditor (being a person well skilled in accounts, and not being one of the Commissioners) to audit and docquet the accounts of the Commissioners relating to the manufacture and supply of gas; and such auditor shall continue in office until superseded by the appointment of another, and shall be allowed such reasonable remuneration for his time, trouble, and responsibility as shall be fixed by the sheriff at the time of appointment; and in case in any year the office of such auditor shall, before such accounts have been audited by him, become vacant by death, or from any other cause, the sheriff, on the application of the Commissioners, or of any three annuitants, shall from time to time appoint an auditor to supply such vacancy; and the whole books, accounts, vouchers, and documents of the Commissioners in relation to their gasworks

A.D. 1870.

undertaking shall be laid before the auditor for the purpose of such audit.

Commissioners to discharge debts of company, and undertaking of company to vest in Commissioners.

17. On or before the first day of December one thousand eight hundred and seventy, the Commissioners shall pay off and relieve the company from liability for payment of the mortgage and bond debts, and all other debts and liabilities of the company, and shall deliver to the company or place upon record discharges and receipts for such mortgage and bond and other debts to the satisfaction of the sheriff, or, in case of any obstacle existing or arising to prevent any of the said debts from being so paid and discharges thereof obtained, consignation of the amount of such debts in any of the chartered banks in Scotland, at the sight and to the satisfaction of the sheriff, so as to secure the payment thereof, shall have the same effect as the delivery or recording of discharges therefor, and the sheriff, when satisfied that the whole of the mortgage and bond and other debts of the company have been paid and discharged, or secured by consignation as aforesaid, shall on the application of the commissioners grant a certificate to that effect, and upon such certificate being granted, the undertaking of the company, and their whole rights, powers and privileges, lands, buildings, works, mains, pipes, stores, machinery, meters, and other apparatus, property, or estate, heritable and moveable, real and personal, and assets, money in the hands of bankers or others belonging to the company, and debts due to the company, as on the thirty-first day of May one thousand eight hundred and sixty-nine, and all money earned and to be earned, due or to become due from that date until the undertaking shall become vested in the Commissioners under this Act (except the sum of five hundred pounds eighteen shillings and twopence for dividends for the year ending thirty-first day of May one thousand eight hundred and sixty-nine, and five hundred and one pounds for dividends for the year ending thirty-first May one thousand eight hundred and seventy, which said sums shall be retained by the company or paid by the Commissioners to the company if not so retained), shall vest and become vested in and transferred to the Commissioners, subject to and under burden of payment of the annuities after mentioned, and the burdens, debts, and obligations of the company: Provided always, that within six months after the date of the said certificate, the Commissioners shall produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's printers, and duly stamped with an ad valorem stamp duty of the same amount as would have been payable in respect of a conveyance of the said undertaking for the consideration by this Act provided: and if the Commissioners shall not, within the said period of six months, produce to the Commissioners of Inland

Revenue such copy of this Act duly stamped as aforesaid, the said ad valorem stamp duty shall be recoverable from the Commissioners with full costs of suit, and all costs and charges attending the same.

Act equivalent to general conveyance of lands.

18. After the mortgage and bond and other debts of the company shall have been paid and discharged or consigned, and a certificate to that effect shall have been granted by the sheriff in manner herein provided, this Act shall, as respects the lands and heritages to become vested in the Commissioners as aforesaid, be equivalent to a general conveyance thereof by the company according to the law of Scotland; and thereupon, in order to the completion of a feudal title to the said lands and heritages in the Commissioners, it shall be lawful for the Commissioners to expede a notarial instrument or notarial instruments which shall specially set forth this Act and the said certificate, and to record such notarial instrument or notarial instruments in the manner and to the effect prescribed by "The Titles to Land Consolidation (Scotland) Act, 1868," with reference to lands conveyed by general disposition or conveyance, and such notarial instrument or notarial instruments shall contain provisions constituting the annuities real and preferable burdens upon the lands and heritages so conveyed.

Annuities to be paid to shareholders of company.

19. The Commissioners shall pay for the undertaking of the company the following perpetual annuities, that is to say, in respect of the capital of the company, amounting to eight thousand three hundred and fifty pounds, the Commissioners shall pay perpetual annuities amounting in the aggregate to five hundred and one pounds per annum, and each person entitled on the first day of August one thousand eight hundred and seventy to any share or shares of the said capital shall be entitled to a proportion of the said aggregate amount of annuities of five hundred and one pounds corresponding to the proportion which the share or shares to which he is then entitled shall bear to the whole of the said capital; and all such perpetual annuities shall be payable in every year from and after the first day of August for the year ending on the thirty-first day of May in the same year, the first year's annuities being payable on the first day of August one thousand eight hundred and seventy-one to the persons entitled to the same; provided that if any such day of payment shall be a Sunday, such payment shall be made on the following day.

Annuities to vest in shareholders of Company.

20. The said annuities shall be called "Broughty Ferry Gas Annuities," and shall vest in and belong to the several persons who, on the first day of August one thousand eight hundred and

A.D. 1870.

seventy, shall be shareholders in the company, according to their respective rights and interests in the share capital of the company as herein-before provided, and shall be subject to the following provisions; viz.,

Annuity certificates to be granted.

(A.) On or before the first day of December one thousand eight hundred and seventy, the Commissioners shall, at their own expense, grant and issue to every shareholder of the company, or to his executors, administrators, or assignees, on delivery to the Commissioners of the certificate, or on production of other evidence of the share or stock or interest held by him in the capital of the company, annuity certificates in the form of the schedule (A.) to this Act for the amount of the annuities to which such shareholder is entitled under the provisions of this Act:

Certificates to be numbered and renewed.

(B.) The said annuity certificates shall be numbered in arithmetical progression, beginning with number one; and every annuity certificate shall be distinguished by its appropriate number; and the said annuity certificates shall be renewed by the Commissioners when lost, worn out, or damaged, on production to them, or their clerk or treasurer, of evidence of the right of the annuitant requiring such renewal; and if in any case the Commissioners shall not be satisfied with the evidence offered by any annuitant, he may appeal to the sheriff, who shall decide summarily what evidence is requisite, and whose decision shall be final; and for every such renewed certificate the Commissioners may demand any sum not exceeding two shillings and sixpence:

Register of annuities.

(C.) The Commissioners shall keep a book called "The Register of Broughty Ferry Gas Annuities," and shall enter therein, from time to time, in alphabetical order, the names and designations of the several annuitants respectively entitled to the annuities, and the respective amounts of their annuities:

Annuities personal estate.

(D.) The annuities shall be moveable or personal estate, and transmissible as such, and shall not be of the nature of heritable or real estate:

Annuities may be transferred.

(E.) Every annuitant may sell and transfer all or any of his annuities, and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated, and such deed may be in the form of the Schedule (B.) to this Act, or to the like effect:

Transfer of annuities to be registered.

(F.) Every such transfer, when duly executed, shall be delivered to the Commissioners, and be kept by them, and they shall keep a book, called "The Register of Transfers of the

A.D. 1870.

Broughty Ferry Gas Annuities," and shall enter every such transfer therein, and shall endorse such entry on the transfer (such endorsement to be signed by the treasurer or clerk), and shall on demand deliver a new certificate to the transferee, and for every such entry of a transfer with such endorsement and certificate the commissioners may demand any sum not exceeding two shillings and sixpence; and on the request of any transferee, an endorsement of the transfer to him shall be made on the certificate transferred instead of a new certificate being granted, and such endorsement, being signed by the treasurer or clerk, shall be considered in every respect the same as a new certificate, and until such transfer be so delivered to the Commissioners the transferee shall not be entitled to receive any part of the annuities transferred:

Closing of transfer books.

(G.) The Commissioners may close the register of transfers of annuities for any period not exceeding fourteen days before the first day of August in each year, and any transfer made during the time when such register is closed shall, as between the Commissioners and the transferee, but not otherwise, be held as made after that time:

Transmission of annuities by other means than transfer to be authenticated by a declaration.

(H.) If the right to any annuity becomes transmitted in consequence of the death, or bankruptcy, or insolvency of any annuitant, or in consequence of the marriage of a female annuitant, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing, as herein-after provided; and, until the transmission be so authenticated, no person claiming by virtue thereof shall be entitled to receive any part of the annuity transmitted:

Contents of declaration in all cases.

(I.) Every such declaration shall state the manner in which and the party to whom the annuity is transmitted, and shall be made and signed by some credible person before a justice of the peace or sheriff of any county or city, and such declaration shall be left with the Commissioners, and thereupon they shall enter the name of the person entitled under such transmission in the register of annuities, and for every such entry the Commissioners may demand any sum not exceeding one shilling:

Contents of declaration in cases of transmission by marriage or will.

(J.) If the transmission be by virtue of the marriage of a female annuitant, the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration or effecting thereof, and shall declare the identity of the wife with the holder of the annuity; and if the

A.D. 1870.

transmission be by virtue of any will or testamentary instrument, or by intestacy, the confirmation or testament testamentar, or testament dative, or the probate or letters of administration, or an official copy or extract thereof, shall, with the declaration, be produced to the treasurer or clerk, and upon such production, in either of those cases, the treasurer or clerk shall make an entry of the declaration in the register of transfers of annuities:

Commissioners not bound to regard trusts.

(K.) The Commissioners shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any annuity may be subject, and the receipt of the person in whose name any annuity stands in the register of annuities shall from time to time be a sufficient discharge to the Commissioners for any money payable in respect of such annuity, notwithstanding any trust to which the same may then be subject, and whether or not the Commissioners have had notice of such trusts, and the Commissioners shall not be bound to see to the application of the money paid upon such receipt:

Commencement and payment of annuities.

(L.) The annuities shall be computed from the thirty-first day of May one thousand eight hundred and seventy, and shall be paid at the office of the Commissioners or their treasurer in the burgh of Broughty Ferry, in net money, clear of all deductions whatsoever (except income or property tax, or other tax in the nature thereof, legally chargeable thereon):

Power to redeem annuities by agreement.

(M.) The Commissioners may from time to time by agreement with any annuitant purchase or redeem all or any of his annuities, and when any annuity is so redeemed an entry of the redemption thereof shall be made in the register of Broughty Ferry Gas annuities, and thereupon the redeemed annuity shall be wholly extinguished:

Annuities recoverable by suit.

(N.) If any annuity or part of an annuity being payable be not paid on demand thereof in writing, made by any annuitant or his agent to the Commissioners, the annuitant may sue for and recover the same from the Commissioners, with interest at the rate of five pounds per centum per annum till paid, and full costs of suit, in any court of competent jurisdiction:

Annuitants to be preferential creditors for annuities.

(O.) The annuitants shall be creditors of the Commissioners for payment of the annuities respectively herein-before directed to be paid to them, and of the interest thereon, and expenses incident thereto; and the said annuities, and the interest on the moneys authorized to be borrowed under the autho-

rity of this Act, are hereby constituted primary and preferential burdens and liens on the undertaking, and on any other works and property from time to time vested in or belonging to, or to be constructed by the Commissioners, and the rates, charges, and assessments leviable by, and the other revenues of, the Commissioners under this Act.

Debts and liabilities of company to be discharged by the Commissioners.

21. On and after the thirty-first day of May one thousand eight hundred and seventy, all mortgages, bonds, securities for money, conveyances, contracts, agreements, and obligations previously granted, made, or entered into by the company in favour of or with any person or persons whomsoever, in relation to the undertaking of the company, and all liabilities arising out of the same, and all debts owing by the company, and all annual or periodical payments exigible from the company, shall be enforceable against and recoverable from the Commissioners, and shall be chargeable and charged upon the undertaking to be vested in the Commissioners by virtue of this Act and upon the moneys to be received by the Commissioners under this Act, and shall remain in full force and effect against the Commissioners, and be and continue valid in law, and available in all courts of law and equity until the same be fully satisfied, paid, performed, and discharged; and with respect to all such rights, liabilities, claims, and demands the Commissioners shall to all intents and purposes represent the company.

Actions not to abate.

22. No action, suit, prosecution, or other proceeding whatsoever commenced either by or against the company previous to such transference in relation to the undertaking of the company to be vested in the Commissioners as aforesaid shall abate or be discontinued or be prejudicially affected thereby, but all such actions, suits, prosecutions, and other proceedings shall continue and take effect, either in favour of or against the Commissioners, in such and the like manner as the same would have continued and taken effect in relation to the company if such transference had not been made.

Company to cease to supply gas.

23. From and after the date when the Commissioners shall become vested with the undertaking of the company under the provisions of this Act, the company shall cease to manufacture, sell, and supply gas.

Ultimate dissolution of company.

24. From and after the date of the certificate, to be granted by the sheriff in manner herein-before provided, the company shall subsist only for the purpose of securing the annuity certificates being granted to the respective shareholders of the company for their respective annuities as herein-before provided; of retaining, receiving, and dividing among the shareholders the said sum of five hundred pounds eighteen shillings and twopence, in so far as not

A.D. 1870.

already divided; and the said sum of five hundred and one pounds, or so much thereof as shall not be required for the expenses of winding up the company; and of obtaining from the Commissioners discharges of the mortgage and other debts and obligations due by the company, which under the provisions of this Act are to be paid by the Commissioners; and for winding up the affairs of the company and carrying into effect the purposes of this Act so far as relating to the company; and the directors of the company who are in office at the date of the certificate to be granted by the sheriff in manner herein-before provided, and the survivors and survivor of them shall continue, without re-election, to hold the office of directors of the company, and shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned, and on the fulfilment of the said purposes the company shall be dissolved.

Limits of Act.

25. The limits of this Act for the supply of gas by the Commissioners shall comprise and include the burgh of Broughty Ferry, in the parishes of Dundee and Monifieth and county of Forfar, but it shall be lawful for the Commissioners to sell and supply gas by special agreement at any place or places beyond the burgh within said parishes of Dundee and Monifieth not within the limits for the supply of gas under "The Dundee Gas Act, 1868," and to lay pipes and do all other acts necessary for that purpose.

Power to manufacture and supply gas.

26. It shall be lawful for the Commissioners, and they are hereby required to make and to supply gas for the purpose of lighting the streets and public places within the burgh, and to supply gas to the inhabitants, houses, buildings, works, and premises within the limits of this Act, and from time to time to maintain, restore, improve, or alter the existing gasworks hereby vested in them, and to erect new works, and to purchase and procure all such materials, and to do all such acts as the Commissioners shall consider necessary for these purposes, and to manufacture, sell, and dispose of the coke and other substances, products, and refuse or residuum arising or to be obtained from the materials used in making gas, in such manner as the Commissioners may think proper: Provided, that nothing in this Act shall prevent the Commissioners from being liable to any legal proceedings for nuisance to which they may be liable in consequence of the exercise by them of the powers aforesaid.

Power to purchase additional lands.

27. The Commissioners may, for the purposes of this Act, purchase and hold (by agreement, but not otherwise) any lands and heritages not exceeding in the whole five acres, in addition to

the lands acquired from the company under the powers of this Act, but it shall not be lawful for the Commissioners to manufacture gas, excepting on the lands described in Schedule (F.) to this Act, on which the gasworks of the company have been erected, nor to store gas (except on such lands) within three hundred yards of any dwelling house, without the consent of the owner, lessee, and occupier thereof.

Dispensing with notice as to interference with streets under control of Commissioners.

28. It shall not be necessary for the Commissioners, before they proceed to open or break up for the purposes of this Act any street under the control of the Commissioners, to give any notice of their intention so to do.

Power to supply gas fittings, &c.

29. The Commissioners may manufacture, purchase, supply, hire, sell, let, lay down, place, and maintain gas fittings, meters, pipes, pillars, lamp posts, lamps, burners, and other articles and things connected with gasworks, or with the supply of gas for public or private consumption, in such manner as the Commissioners think proper, and generally may carry on such operations and business as are for the time being usually carried on by gas companies.

Commissioners to supply gas in certain events at the request of owner or occupier.

30. The Commissioners shall, at the request in writing of any owner or occupier of any house or premises, or any public body or private company having premises within the limits of this Act, and within one hundred yards of which premises any main gas pipe of the Commissioners shall be then laid, furnish to such owner or occupier, public body, or private company, a sufficient supply of gas for such house or premises, together with a meter and so much of the service pipe as shall be necessary to communicate between the main pipe of the Commissioners and such meter: Provided, that the expense of so much of the service pipe as shall be laid upon private property, or in any other case as shall be laid beyond twenty-five feet in length, shall be defrayed by such owner or occupier, public body, or private company: and provided further, that the Commissioners shall not be bound to furnish such supply of gas or meter or service pipes unless such owner or occupier, public body, or private company, shall enter into a written contract to continue to receive and pay for a supply of gas for a period of at least two years, and to an amount not being less than twenty pounds per centum per annum on the outlay incurred by the Commissioners in providing such service pipe and meter; and if the Commissioners shall, by their wilful default, fail to supply the gas within a reasonable time after such request, then on proof of such failure the Commissioners shall be subject to a penalty not exceeding five pounds.

A.D. 1870.

Security for payment of rate.

31. Any person requesting to have a supply of gas from the Commissioners shall, if and when so required in writing by them, before he is entitled to have such service pipes and meter provided and fixed or to have a supply of gas, give to them such security for the payment of the rate for the gas to be supplied to him as he and the Commissioners agree on, or as in default of agreement shall be determined as by this Act provided; and the Commissioners shall be liable to a penalty not exceeding five pounds if they shall discontinue the supply of gas to any person then having a supply, unless such person shall have failed to give them such security for seven days after the same shall have been demanded by the Commissioners.

Sheriff may determine the nature of security

32. Where any person and the Commissioners do not agree on the security to be given, the same shall be determined by the sheriff, or the sheriff shall, on the application of the person and the Commissioners, or either of them, determine the nature and amount of the security to be given, and the security may, as the sheriff thinks fit, be the deposit with the Commissioners or with any person approved of by the sheriff, or the prepayment to the Commissioners of a sum of money or any other security which the sheriff thinks sufficient and reasonable, and the determination of the sheriff shall be binding on all parties: Provided, that if the security be the deposit with the Commissioners of a sum of money, the Commissioners shall pay interest thereon to the consumer at the rate of four pounds per centum per annum for such time as the sheriff determines.

Gas pipes may be put on buildings.

33. Subject to the provisions contained in this Act, and the Acts wholly or partially incorporated herewith, the Commissioners may lay any pipe, branch, or other necessary apparatus, with the consent of the owner and occupier of any building, for the purpose of lighting the same or any adjoining building, and may, with the like consent, provide and set up any apparatus necessary for securing to any building a proper and sufficient supply of gas, and for measuring and ascertaining the extent of such supply.

Gas to be consumed by meter.

34. Every consumer of gas supplied by the Commissioners shall, on requisition in writing by the Commissioners, consume gas by meter; and every such meter, whether the same is provided by the consumer or the Commissioners, shall be at all times subject to the inspection and approval of the officers and servants of the Commissioners.

Notice to Commissioners

35. Before any person shall connect or disconnect any meter through which any of the gas of the Commissioners is intended to

be or has been registered, he shall give not less than twenty-four hours notice in writing to the Commissioners of his intention to do so, and any person offending against this enactment shall be liable to a penalty not exceeding forty shillings.

putting up or removing meters.

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

Repair of meters.

37. The Commissioners may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings thereto, for such remuneration in money, and on such terms with respect to the repair of such meter and fittings and for securing the safety and return to the Commissioners of such meter, as may be agreed upon between the hirer and the Commissioners, and such remuneration shall be recoverable in the same manner as the rents or sums due to the Commissioners for gas, and such meters and fittings shall not be subject to distress for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law or any proceedings in bankruptcy against the persons in whose possession the same may be.

Power to Commissioners to let meters.

38. The register of the meter shall be primâ facie evidence of the quantity of gas consumed by any customer of the Commissioners, and in respect of which any rent is charged and sought to be recovered by the Commissioners.

Register of gas meter to be primâ facie evidence.

39. It shall be lawful for the Commissioners, after twenty-four hours notice in writing under the hand of the manager of their works, or some other one of their officers, to the occupier, or, if unoccupied, then to the owner or lessee, or the person in charge or reputed to be in charge, of any land, house, or building in which any pipes, mains, meters, or fittings belonging to the Commissioners are laid or fixed, and through or in which the supply of gas shall from any cause other than the neglect or default of the Commissioners be discontinued, to enter such land, house, or building, between the hours of nine in the morning and six in the afternoon, for the purpose of removing and to remove such pipes, meters, or

Power to remove meters and fittings.

A.D. 1870. fittings, repairing all damages caused by such entry or removal; and every such notice shall be served by being delivered to the person for whom it is intended, or left at his usual or last known place of abode, or if such person or his address be not known to the Commissioners after due inquiry, then by being affixed on some conspicuous part of such land, house, or building.

Fraudulently injuring meters, &c.

40. Every person who shall wilfully, fraudulently, or by culpable negligence, injure or suffer to be injured any meter or fittings belonging to the Commissioners, or shall fraudulently alter or prevent the index to any meter from duly registering the quantity of gas supplied, shall (without prejudice to any other right or remedy for the protection of the Commissioners or the punishment of the offender) for every such offence forfeit and pay to the Commissioners a sum not exceeding five pounds, and the Commissioners may in addition thereto recover the amount of any damages by them sustained, and the Commissioners may also discontinue the supply of gas to the person so offending until the injury is remedied and the amount of the damages is paid, and notwithstanding any contract previously existing.

For preventing frauds and waste of gas.

41. If and whenever any person supplied with gas by the Commissioners wilfully does or causes or suffers to be done anything in contravention of any of the provisions of this Act, or wilfully fails to do anything which under this Act ought to be done for the prevention of the waste, misuse, or undue consumption of the gas of the Commissioners, the Commissioners may cut off or stop any pipe by or through which gas is supplied to him, and cease to supply him with gas so long as the cause of injury remains or is not remedied, and also may recover in any court of competent jurisdiction, from every person so offending, the amount of all loss, damage, or injury which the Commissioners may sustain by reason of any such thing or failure; and the remedies of the Commissioners under this enactment shall be in addition to their other remedies in that behalf.

Quality of gas.

42. All the Gas supplied by the Commissioners shall be, at least, of such quality as to produce, from an argand burner having fifteen holes and a seven-inch chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to the light produced by eighteen sperm candles of six in the pound, burning one hundred and twenty grains per hour.

Commissioners to maintain apparatus to

43. The Commissioners shall, within six months after the passing of this Act, provide in some convenient part of their works an experimental meter, furnished with an argand fifteen-hole

burner and a seven-inch chimney, or other approved burner, capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas, and so situate and arranged as to test all the gas supplied by the Commissioners, and shall at all times thereafter keep and maintain such experimental meter and apparatus in good repair and working order.

test illuminating power of gas.

44. Any five consumers of gas may, by order in writing, appoint some competent person to proceed to the works of the Commissioners, and the person so appointed may, at any reasonable hour in the daytime, on producing the said order, enter on the premises of the Commissioners, and in the presence of the superintendent or other officer of the Commissioners make experiment of the illuminating power of the gas by means of the experimental meter and other apparatus before mentioned, and the Commissioners and their officers shall afford all reasonable facilities and assistance for making such experiment; and if it shall be proved to the satisfaction of the sheriff, after hearing the parties, that the illuminating power of the gas supplied by the Commissioners did not, when so tested as aforesaid, equal the illuminating power by this Act prescribed, or that the Commissioners or their officers refused to afford such reasonable facilities as aforesaid, or hindered or prevented the making of such experiment, in any such case the Commissioners shall forfeit such sum, not exceeding twenty pounds, as the sheriff shall determine.

Provision for testing quality of gas.

45. The costs of and attending such experiment, including the remuneration to be paid to the person making the same and the costs of the proceedings before the sheriff, shall be ascertained by such sheriff, and, in the event of any penalty being imposed on the Commissioners, shall be paid, together with such penalty, by the Commissioners, but in the event of no penalty being imposed such costs shall be awarded to be paid by the persons complaining to the Commissioners, and shall be paid or levied accordingly.

Costs of experiment to be paid according to the event.

46. The Commissioners shall, within one month after the date of the certificate to be granted by the sheriff in manner herein provided, and also at latest at their general meeting held on the second Monday of October annually, cause their treasurer to lay before them an estimate by him of the sums to be derived for the ensuing year from the sale of gas, secondary products, and other materials or articles, and from the letting of meters, and also an estimate of the sums required to meet for such year the annuities, interest on borrowed money, sinking fund, expenses of management, maintenance of works, repairs, materials, salaries, wages,

Commissioners to fix rates for gas.

A.D. 1870.

taxes, and other outgoings and charges, and at said meeting, or at an adjournment thereof, the Commissioners shall fix the sums to be charged by them for gas and other products and articles manufactured and sold or let by them for the year then ensuing, so that the revenue shall as nearly as possible meet the expenditure for each year: Provided always, that if in any year the revenue received exceeds by ten per centum the amount required for the purposes aforesaid, the Commissioners shall make such reductions in the sums to be charged by them in the following year for the like articles, or one or more of them, as they shall think proper.

Guarantee rate.

47. It shall be lawful for the Commissioners, and they are hereby required from time to time to fix, impose, and levy such a rate, to be termed "The Gas Contingent Guarantee Rate," as shall be necessary to meet any deficiency in the monies required to pay the annuities and interest thereon (if any), the interest of money borrowed and to be borrowed, and other annual expenditure, under the provisions and for the purposes of this Act.

Assessment and levy of rate.

48. The gas contingent guarantee rate shall be imposed and levied by the Commissioners on and from the occupiers of all lands and heritages within the burgh according to the valuation roll in force therein for the time being, and in the same manner as the assessment for general purposes of police may be imposed and levied within the burgh, under the provisions of the Police Act; and all the powers, enactments and provisions contained in the Police Act, with respect to the levying, payment, and recovery of the assessments thereby authorized to be levied on and from the occupiers or the owners of lands and heritages, and with respect to the exceptions and exemptions from such assessments, shall be and are hereby made applicable to the levying, payment, and recovery of the rate by this Act authorized to be raised, and the exceptions and exemptions therefrom, in the same manner as if said rate had been authorized to be levied under the authority of the Police Act.

Recovery of sums owing to Commissioners.

49. Where any person fails to pay any gas rent or any rate or any sum whatever due under this Act to the Commissioners, they may recover the same with costs, including the costs of cutting off the gas if the same shall have been cut off by the Commissioners, by proceedings in any court of competent jurisdiction, and their remedies under this enactment shall be in addition to their other remedies for the recovery thereof.

Application of revenue.

50. The rates and charges levied under the authority of this Act shall be applied in manner following; (that is to say,)

First. In payment of the perpetual annuities to the annuitants, and of the interest of money borrowed under the authority of

this Act, and of any feu duties or ground annuals exigible in respect of any lands or property forming part of the undertaking;

Second. In defraying the expenses of management and maintenance of the undertaking, including the salaries and wages of the officers and servants of or employed under the Commissioners, and the annual costs, charges, and expenses of providing and supplying gas;

Lastly. In payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes, and of extending the works, mains, and pipes from time to time, as the Commissioners shall think it reasonable to charge against the revenue for the year, and of any other necessary annual expenditure.

Power to borrow on mortgage.

51. It shall be lawful for the Commissioners to borrow on mortgage any sums not exceeding eight thousand pounds, and to make and grant mortgages of the undertaking by this Act vested in them, and of the works and property to be constructed and acquired, and also of the several rates and charges leviable by them under the provisions of this Act, in security of the payment of the money so borrowed and interest thereon; and if, after having borrowed the said sums or any part thereof, the Commissioners pay off the same otherwise than by a sinking fund, it shall be lawful for them again to borrow the amount so paid off, and so from time to time.

Form of mortgage.

52. Every mortgage to be granted by the Commissioners shall be by deed duly stamped, in which the consideration shall be truly stated, and may be in the form of the Schedule (C.) to this Act annexed.

Mortgages may be accompanied with interest warrants.

53. It shall be lawful for the Commissioners to issue along with any such mortgage, and during the period of any postponement of the term of payment thereof, interest warrants in the form of the Schedule (D.) to this Act annexed, or to the like effect, signed by the treasurer, for the periodical payment of the interest to become due on the principal sums thereby secured during the period for which such mortgage is intended to subsist; and the delivery to the Commissioners or their treasurer, or to any person on their behalf, of any such interest warrant, duly stamped as a receipt, shall be a valid and sufficient discharge to the Commissioners for the interest in respect of which the same was issued.

Commissioners may borrow on

54. It shall be lawful for the Commissioners to accept and take from any bank or banking company credit on a cash account, to

A.D. 1870.

credit of a cash account.

be opened and kept with such bank or banking company in the name of the Commissioners, according to the usage of bankers in Scotland, to the extent of the sum which the Commissioners are herein-before authorized to borrow, or any part thereof, and to make and grant mortgages of the property and works forming their undertaking, and of the several rates and charges leviable by them under this Act, in security of the payment of the amount of such credit, or of the sums advanced from time to time on such cash account, with interest thereon: Provided always, that the whole principal sums due and owing by the Commissioners on such cash account, and for money borrowed by them on mortgage as aforesaid, shall not, when taken together, exceed the sum by this Act authorized to be borrowed.

Manner in which mortgages and orders on bank account to be signed and executed.

55. Every mortgage to be granted by the Commissioners may be partly in writing and partly printed, and shall be signed by at least two of the Commissioners and the treasurer, and all drafts or orders on the cash account before mentioned shall be signed by any two of the Commissioners authorized so to do, and shall be countersigned by the treasurer: Provided always, that no Commissioner or treasurer shall by his subscription of any such mortgage, draft, or order, be or be held to have rendered himself individually or personally liable for the payment of any money so borrowed, drawn, or received, or any interest thereon, or of any sums whatsoever in respect thereof.

Arrears may be enforced by appointment of a judicial factor.

56. In the event of any annuity or part of an annuity, or of any principal money borrowed by the Commissioners as aforesaid, or any interest thereon, not being paid within two months after the same shall have become due, and after twenty-one days previous demand thereof in writing, containing notice of the intention to make the application after mentioned, and which twenty-one days may form part of the said two months, it shall be lawful for any annuitant or mortgagee having an annuity or interest on a mortgage respectively in arrear to the amount of one hundred pounds, or for any mortgagee, with principal or principal and interest in arrear to the amount of five hundred pounds, or for several annuitants or mortgagees having annuities or interest respectively in arrear to the amount of two hundred pounds in the aggregate, or for several mortgagees with principal or principal and interest in arrear to the amount of one thousand pounds in the aggregate, to render their security effectual by the appointment of a judicial factor; and the application for such appointment may be made from time to time when such arrears arise, and shall be made by summary petition to the Court of Session, in either division thereof, or, in time of

A.D. 1870.

vacation, to the Lord Ordinary, on the Bills, who are hereby respectively authorised and required, on such application being made by any annuitant or annuitants, or mortgagee or mortgagees, holding the sums in arrear before specified, to appoint from time to time some person as judicial factor, to the effect and with the powers herein-after mentioned, unless, previously to such application being advised, the sums due, with interest and expenses, shall have been paid to the petitioner or petitioners; and the interlocutor making such appointment shall not be subject to review or appeal, but without prejudice to the legal rights of recovery competent to such annuitant or annuitants, or mortgagee or mortgagees.

Power and duties of judicial factor.

57. The judicial factor so appointed, on finding security in common form, shall have and exercise all the powers conferred by this Act upon the Commissioners for and in relation to fixing, imposing, levying, and recovering the several rates and charges by this Act authorised to be made and levied, and managing and maintaining the undertaking, works, and property by this Act vested in or authorised to be constructed or acquired by the Commissioners; and the Commissioners shall deliver to him all rate books and other books and documents necessary for that purpose; and, after defraying the expense of such application, management, and maintenance, the said judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several parties entitled to payment out of the rates and revenues, according to their respective rights and priorities as herein-before provided; and such judicial factory shall continue not only until all arrears of annuities and arrears of interest or of principal and interest of mortgages due at the date of the appointment of such judicial factor, and all interest due on any of the said sums, and any annuities or interest which shall have become due during his continuance in office, with interest and expenses, including the expenses of the application for such appointment, and of carrying the purposes thereof into execution, and for obtaining the judicial factor's discharge, shall have been paid, but also until any annuities or interest which, although not due, may become current during his continuance in office, and a sufficient sum to meet expenses shall have been paid or consigned in one of the banks in Scotland incorporated by Act of Parliament or royal charter; and upon payment as aforesaid of such annuities, interest, and expenses, it shall be lawful for the Commissioners to apply to the Court of Session in either division thereof, or, in time of vacation, to the Lord Ordinary, on the Bills, for the recall of the appointment of the judicial factor, who may recall such appointment accordingly.

A.D. 1870.

Mortgages to be personal estate.

58. All mortgages to be granted by the Commissioners under the authority of this Act, and all money to be advanced and lent on the security of the rates and charges leviable by them, shall be moveable or personal estate, and transmissible as such, and shall not be of the nature of heritable or real estate.

Discharge of mortgages.

59. Any person entitled to any mortgage granted by the Commissioners under the authority of this Act may discharge the same, and his right and interest therein, in favour of the Commissioners; and every such discharge may be written, or partly written and partly printed, on the mortgage, and may be according to the form contained in the Schedule (E.) to this Act, or to the like effect; and such discharge, when signed by the person entitled to such mortgage, and duly stamped, shall be valid and effectual to all intents and purposes.

Providing for regular payment of annuities.

60. With a view to the regular payment of the annuities under the provisions of this Act as the same fall due, the Commissioners may from time to time apply such part of the money borrowed under the authortty of this Act as may be required to pay the said annuities, but it shall be incumbent on the Commissioners to replace the sums so applied out of the rates and charges to be imposed and levied under the powers of this Act.

Application of money borrowed.

61. The several sums borrowed by the Commissioners under the authority of this Act shall be applied in the payment of the mortgage and other debts of the company, and in carrying the other purposes of this Act into execution, but the Commissioners shall not apply any of the money so borrowed to the maintenance of the works acquired or to be constructed by them, or to the expenses of management, or to any other expenses properly payable out of revenue.

Sinking fund.

62. The Commissioners shall, after the expiration of one year from the passing of this Act, set apart as a sinking fund a sum of not less than one hundred pounds per annum, and such sinking fund shall from time to time be applicable to the redemption of mortgages and annuities, and to no other purpose, and shall be lodged in any of the banks in Scotland incorporated by Act of Parliament or Royal Charter, or invested in Government securities, or lent out at interest in the name of the "Broughty Ferry Gas Commissioners," and at the discretion of the Commissioners, until the same be applied for the purposes before specified.

Application of penalties.

63. All penalties and forfeitures exigible under this Act, and the Acts wholly or partially incorporated herewith, shall be payable to

the Commissioners, and shall, when recovered, be applied by them to the purposes of this Act.

Not to affect powers of Commissioners under public Acts.

64. Nothing in this Act contained shall prejudice or affect the powers of the Commissioners under the provisions of "The General Police and Improvement (Scotland) Act, 1862," and "The Public Health (Scotland) Act, 1867," and the Acts made in the years one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, for confirming provisional orders relating to the burgh, being the Act thirty-one Victoria, chapter twelve, and the Act thirty-two and thirty-three Victoria, chapter one hundred and fifty-eight, and any supplemental Act or Acts, or of laying on general district and other rates for the purposes of such Acts, or any of them.

Expenses of Act.

65. All costs, charges, and expenses of the company, and the Commissioners of and incidental to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the moneys raised and received by them under the authority of the Police Act and this Act.

SCHEDULE (D.)

FORM OF INTEREST WARRANT.

Broughty Ferry Gas.

Mortgage No. dated 18 .

Interest Warrant

		£	s.	d.
For	pounds, shillings,			
and	pence - - - - -			
	Less income tax - - - -			
		£		

Payable on 18 , at the Treasurer.

SCHEDULE (E.)

FORM OF DISCHARGE.

Broughty Ferry Gas.

Received from the treasurer to the Commissioners acting under "The Broughty Ferry Commissioners (Gas) Act, 1870," on their behalf, the sum of being the principal sum contained in the within mortgage (all interest due thereon having been previously paid), and the said mortgage is now delivered up as paid.

Dated this day of , eighteen hundred and

SCHEDULE (F.)

All and whole that piece of ground lying between Brook Street and Cottage Place of Broughty Ferry, bounded on the north by Brook Street, on the east by a new road, twenty feet wide, running from Brook Street towards the Pier Branch Railway, on the south by Long Lane, otherwise called Cottage Place, and on the west by the graveyard attached to the Chapel of Ease of Broughty Ferry, in the parish of Monifieth, and county of Forfar.

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