CHAPTER 49.

An Act to make provision for lighting Burghs in Scotland with Gas.

[11th August 1876.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as "The Burghs Gas Supply (Scotland) Act, 1876."

Application of Act limited.

2. The provisions of this Act shall not empower the town council or commissioners of police of any burgh in which this Act shall be adopted, as commissioners under this Act, to supply gas within any part of the area of supply over which the town council or commissioners of police of any other burgh, or any gas company, incorporated by Act of Parliament, or any company, partnership, or person authorised by any Provisional Order confirmed by Act of Parliament, shall have statutory powers to supply gas at the date of the adoption of this Act in such burgh.

Interpretation of terms.

3. The following expressions in this Act have the meanings hereby assigned to them; that is to say,

"Burgh" shall mean Royal burgh and Parliamentary burgh, and includes every burgh and place having town councillors or commissioners of police elected under any General or Local Act of Parliament:

"Commissioners" means the authority for executing this Act in any burgh in which the same shall be adopted:

"Elector" means any person entitled to vote in the election of town councillors or police commissioners in any burgh or any ward thereof:

"Ratepayer" has the same meaning in this Act as "householder" has in the General Police and Improvement (Scotland) Act, 1862, as amended by the General Police and Improvement (Scotland) Act, 1862, Amendment Act:

"Lands and heritages" has the same meaning in this Act as in the Act of the seventeenth and eighteenth year of the reign of Her present Majesty, chapter ninety-one, intituled "An Act for the valuation of lands and heritages in Scotland":

"Company" means any person, persons, company, or companies carrying on the business of a gas company:

"Shareholder" means shareholder or holder of stock of any gas company whose works may be acquired by the commissioners of any burgh under the provisions of this Act:

"Annuity" means any annuity payable under this Act:

"Annuitant" means any person entitled to and holding an annuity payable under the provisions of this Act:

"Sheriff" includes sheriff substitute:

"Clerk," "treasurer," and "collector" mean the clerk, treasurer, and collector respectively who may be appointed by the commissioners of any burgh which shall adopt the provisions of this Act.

I.—*Adoption of the Act.*

Town council or commissioners of police may resolve that this Act shall be adopted, and cause such resolution to be published.

4. It shall be lawful for the town council in any burgh in which there is a town council, and for the commissioners of police in any other burgh, by a majority of the members who are present at a meeting of such town council or commissioners specially called for the purpose, to resolve that this Act shall be adopted in and applied to the burgh, and to appoint a day not earlier than the third and not later than the thirtieth lawful day after the completion of the then next ensuing annual election of councillors or commissioners of police, as the case may be, for the burgh, for holding a second special meeting to resume consideration of such resolution; and a copy of any minute containing such resolution and appointment shall be inserted once in each newspaper published in the burgh one month at least before such next annual election; and if there be no news-

paper published in the burgh, a copy of such minute shall be delivered or transmitted through the post office to each elector and to the sheriff clerk and clerk of the peace of the county within which the burgh is situated, and shall be inserted once in a newspaper published in such county, or in an adjoining county, one month at least before such next annual election.

If resolution approved, this Act to be adopted, and minute to be registered in sheriff court books.

5. No such resolution as in the preceding section mentioned shall have any validity unless approved by a majority of two thirds at least of the members of the town council or commissioners of police, as the case may be, who are present at such second special meeting or at any adjourned special meeting, (of which adjourned special meeting ten days notice in writing shall be given to each member of the town council or commissioner of police, as the case may be,) and in the event of such approval the town council or commissioners shall not proceed to carry the same into effect until after the expiration of one month from the date of the meeting at which such resolution was approved, and during such month such resolution, as so approved of, shall be advertised once at least in each week in each newspaper published in the burgh, and if there be no newspaper published in the burgh, in some newspaper circulating in the county in which the burgh is situated, and public notice thereof shall also be given by means of placards posted in public places within the burgh; and if before the expiration of such month a remonstrance in writing by twenty or more ratepayers against carrying into effect such resolution, or any part thereof, be lodged with the town clerk or clerk of the commissioners of police, as the case may be, such resolution shall not be carried into effect unless confirmed by a majority of the ratepayers qualified and voting at a poll to be taken, and upon such remonstrance being lodged as aforesaid the chief or senior magistrate of such burgh shall be bound to direct a poll to be taken in the manner prescribed in regard to polls of householders taken with reference to the adoption of "The General Police and Improvement (Scotland) Act, 1862;" and the whole enactments and procedure provided in regard to such polls shall, so far as applicable, extend and apply to the poll hereby authorised and directed to be taken. If no such remonstrance is lodged, or if such resolution is confirmed by the ratepayers, the sheriff shall authorise the resolution to be registered in the sheriff court books of the county in which the burgh is situated; and the provisions of this Act shall be in force from and after such registration, the date of which shall be held as the date of the adoption of this Act. If such resolution is not confirmed, it shall not be lawful for the town council or commissioners of police again to resolve that this Act be adopted and applied to the burgh before the expiration of three years from the date of the previous resolution.

II.—*Incorporation of Acts.*

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

6. "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, and with respect to the entry upon lands by the promoters of the undertaking, be incorporated with and form part of this Act.

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

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.

"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 the same is at variance with the provisions of this Act, be incorporated with and form part of this Act.

The several words and expressions to which by the Acts 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 partially incorporated with this Act, and also in this Act, the expressions "the undertakers" and "the commissioners" shall mean the commissioners acting in the execution of this Act; "the undertaking" shall mean the gasworks, business, property heritable and movable, plant, pipes, meters, and other assets of any

company, to be purchased by and vested in the commissioners under the provisions of this Act; 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 any burgh brought under the provisions of this Act; and the word "lands" shall include any servitude, right, or privilege in, over, or affecting lands.

III.—*The Commissioners; their Proceedings.*

Commissioners for executing Act.

7. The commissioners for executing this Act in any burgh in which the same shall be adopted shall be,—

(1.) In any burgh having a town council, the town council;

(2.) In any other burgh, the commissioners of police.

Power to commissioners to appoint committee.

8. The commissioners may from time to time appoint a committee of their number (to be called "The Gas Committee") for the execution of any of the purposes of this Act, and may appoint a convener of such committee, and may from time to time remove any member of such committee, and appoint another commissioner in his room, and may delegate to any such 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 such committee shall have and may exercise all powers and authorities necessary to enable them to transact the business committed to them; and the acts and proceedings of any such committee within the limits of such delegation shall be deemed the acts and proceedings of the commissioners; and the quorum of any such committee 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 any such committee.

Two or more burghs may amalgamate.

9. It shall be lawful for the town councils or commissioners of police of two or more burghs who have adopted this Act to amalgamate for the purposes of this Act (and on such amalgamation the committees, when appointed by them, shall be called "The Joint Gas Committee"), and the Joint Gas Committee shall have, exercise, and enjoy all the powers and authorities within the area of the combined burghs which are by this Act conferred on the commissioners of any single burgh.

Meetings of committee.

10. Every committee appointed by the commissioners 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.

11. 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.

12. The commissioners shall cause entries of 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.

13. 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.

Liability for payment of rates not to disqualify.

14. 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.

15. 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.

Auditor to be appointed.

16. On or before the first day of May in every year after this Act shall be adopted by a burgh, the commissioners shall apply to the sheriff, and the sheriff shall appoint for the financial year then current an auditor (being a person well skilled in accounts, and not being one of the commissioners, or holding office under them,) to audit the accounts of the commissioners, and such auditor shall continue in office until superseded by the appointment of another, and shall be allowed such reasonable remuneration as shall be fixed by the sheriff; 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 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 undertaking shall be laid before the auditor for the purpose of such audit.

Accounts to be balanced.

17. The accounts to be kept by the treasurer shall be brought to a balance on the fifteenth 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 a general meeting of the commissioners, which shall 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 shall be inserted once in each newspaper published in the burgh within ten days of the date of such general meeting, or if there be no newspaper published in the burgh, a copy of such abstract statement and account shall be inserted once in a newspaper published in the county in which the burgh is situated, or in an adjoining county. The commissioners shall also keep printed copies of such abstract statement and account at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

IV.—*General Powers and Obligations of Commissioners.*

Commissioners may erect gasworks and supply public and private lights in certain cases.

18. The commissioners may (subject to the provisions of this Act) erect, lay down, improve, extend, and maintain gasworks, gasometers, and pipes for the distribution of gas, and execute all such works as may be necessary for the efficient manufacture and supply of gas for public and private purposes, and may purchase, acquire, and hold lands and other property for these purposes, and may carry on any such operations and business as are usually carried on by gas companies.

Provided that the commissioners shall not manufacture or store gas, or any residual products, upon any lands without the previous consent in writing of the owner, lessee, and occupier of every dwelling-house situate within three hundred yards of the limits of such lands, or until the commissioners shall have made a return to the Board of Trade setting forth the description and extent of such lands. But this proviso shall not apply to lands upon which gas or residual products are manufactured or stored at the date of the adoption of this Act.

Sale of superfluous lands.

19. The commissioners may sell and dispose of any lands which are vested in them, or which they are authorised to purchase, and which shall not be required for the purposes

of this Act, and the provisions of the Lands Clauses Consolidation (Scotland) Act, 1845, sections one hundred and twenty-one to one hundred and twenty-five (both sections inclusive), shall apply to any such sale; and the commissioners may also from time to time sell and dispose of any works, buildings, or erections on any lands belonging to them which shall not be required for the purposes of this Act.

Commissioners may purchase gasworks.

20. Where there is a company not incorporated by Act of Parliament, or authorised by Provisional Order confirmed by Act of Parliament, supplying gas within a burgh, the commissioners may, subject to the provisions of this Act, buy from such company, and such company, if formed or registered under the Companies Act, 1862, with the sanction of a special resolution in terms of that Act, and if not so formed or registered, with the consent of a majority of three fourths in value of the shareholders or members of such company, present either personally or by proxy at a meeting specially convened for the purpose, may sell and transfer to the commissioners, on such terms as may be agreed on between the commissioners and the company, the undertaking of such company, and all the rights, powers, and privileges, and all or any of the lands, premises, works, and other property of the company, but subject to all liabilities attached to the same at the time of purchase.

Provisions for purchase.

21. Where there is a company not incorporated by Act of Parliament, or authorised by Provisional Order confirmed by Act of Parliament, supplying gas within a burgh, the commissioners, before they shall exercise any of the powers conferred by this Act, shall give notice to such company that they are willing to buy or to treat for the purchase of the undertaking of such company, and of all the rights, powers, and privileges, and all the lands, premises, works, and other property of the company, and if such company shall consent, in manner provided by the last preceding section, to sell the same, the commissioners shall purchase the undertaking on terms mutually agreed upon or to be fixed by arbitration in the manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, respecting matters thereby directed to be settled by arbitration, and if such company shall refuse to sell the same, or shall not within two calendar months after the service of such notice return any answer, the commissioners may present a petition to the sheriff stating the facts, and the sheriff shall, on being satisfied by evidence of the facts as stated, decern accordingly, and on such decree being pronounced the commissioners shall have and may exercise all the powers conferred by this Act.

Consideration for gasworks of any company if purchased.

22. The consideration to be paid by the commissioners for the purchase of the undertaking of any gas company under the powers of this Act may be either a capital sum of money or annuities, or partly a capital sum of money and partly annuities, as may be agreed upon between the commissioners and the company, but the commissioners shall not pay any such consideration either in the shape of a capital sum or in annuities until the company selling their undertaking shall have delivered to the commissioners a valid conveyance thereof duly stamped and executed: Provided that such annuities shall be limited to expire within forty years from the date of the purchase.

Annuities to vest in shareholders of company.

23. In the event of the agreement between the commissioners and the company being for payment by way of annuity, the following provisions shall have effect; firstly, the amount of the annuity, as the same shall be fixed by agreement or settled by arbitration in the manner herein-before provided, shall be payable in every year on such day or days yearly or half-yearly as may be agreed upon between the commissioners and the company, or settled as herein-before provided; secondly, the said amount shall be paid in the form of annuities, which shall be called by the name of the burgh issuing the same, and which shall vest in and belong and be paid to the several persons, their executors, administrators, or assignees, who at the date of the agreement to purchase the undertaking of the company were shareholders in the company, according to their respective rights and interests in the share capital of the company, subject to the following provisions; viz.,

Annuity certificates to be granted.

(A.) 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:

Amounts for which certificates shall be issued.

(B.) The annuity certificates issued by the commissioners to any person entitled thereto shall be so many, and each of them for such sum, but not exceeding in the aggregate the whole amount of his annuities, as he by notice in writing to the commissioners shall require: Provided that if or so far as any person does not require any particular number of certificates to be issued to him, the commissioners shall issue to such person one or more certificates as they shall think fit:

Certificates to be numbered and renewed.

(C.) The annuity certificates shall be numbered in arithmetical progression, beginning with No. 1, and every annuity certificate shall be distinguished by its appropriate number; and the 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.

(D.) The commissioners shall keep a book called "The Register of [*name of burgh*] Gas Annuities," and 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.

(E.) The annuities shall be movable or personal estate, and transmissible as such:

Annuities may be transferred.

(F.) 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.

(G.) Every such transfer, when duly executed, shall be delivered to the commissioners, and kept by them, and they shall keep a book called "The Register of Tranfers of the [*name of burgh*] 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.

(H.) The commissioners may close the register of transfers of annuities for any period not exceeding fourteen days 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.

(I.) 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.

(J.) 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 a sheriff; 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.

(K.) 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 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.

(L.) The commissioners shall not be bound to see to the execution of any trust, whether expressed, 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.

(M.) The annuities shall be computed from such day in each year as may be agreed upon between the commissioners and the company, and shall be paid at the office of the commissioners or their treasurer in the burgh from which they were issued 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.

(N.) 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, the commissioners shall take a transfer of such annuity which shall set forth the price paid, and an entry of the redemption thereof shall be made in the register of the Burgh's Gas Annuities, and thereupon the redeemed annuity shall be wholly extinguished:

Annuities recoverable by action.

(O.) 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 in the Sheriff Court, with interest at the rate of five pounds per centum per annum till paid, and expenses:

Annuitants to be preferential creditors for annuities.

(P.) 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 moneys authorised to be borrowed under the authority of this Act, are hereby constituted primary and preferential burdens and liens on the rates and charges leviable by and on the other revenues of the commissioners under this Act.

Actions not to abate.

24. No action, suit, prosecution, or other proceeding whatsoever commenced either by or against the company in relation to the undertaking of the company to be vested in the commissioners as aforesaid previous to such vesting taking place, 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 vesting in the commissioners had not taken place.

Company to cease to supply gas.

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

Ultimate dissolution of company.

26. From and after the date when the Commissioners shall become vested with the undertaking of any company, the company shall subsist only for the purpose of securing

the annuity certificates being granted to the shareholders for their respective annuities as herein-before provided, 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 in office at the date of such vesting, and the survivors of them, shall continue without re-election to hold office, 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.

V.—*Borrowing Powers of Commissioners.*

Power to borrow on mortgage.

27. It shall be lawful for the commissioners to borrow on mortgage any money which may be necessary for the purchase or erection of gasworks for the burgh, and to grant mortgages of any rates or 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 any sum of money, 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.

28. 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.

29. 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 credit of a cash account.

30. It shall be lawful for the commissioners to take from any banking company credit on a cash account, to be opened and kept with such banking company in the name of the commissioners, according to the usage of bankers in Scotland, to the extent required as aforesaid, and to make and grant mortgages of any rates or charges leviable by them under the authority of 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.

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

31. Every mortgage to be granted by the commissioners may be written or partly written 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 authorised 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.

32. It shall be lawful for any of the following persons to apply by summary petition to the Court of Session in either division thereof, or in the time of vacation to the Lord Ordinary on the bills, for the appointment of a judicial factor to manage the undertaking of the commissioners, with the powers after mentioned, and for such court or Lord Ordinary to appoint a judicial factor accordingly; that is to say,

1. Any annuitant or mortgagee having an annuity or interest on a mortgage in arrear to the amount of not less than one hundred pounds; or
2. Any mortgagee with principal or principal and interest in arrear to the amount of not less than five hundred pounds; or
3. Any annuitants or mortgagees having annuities, or interest on mortgages in arrear to the amount of not less than two hundred pounds in the aggregate; or

4. Any mortgagees with principal or principal and interest in arrear to the amount of not less than one thousand pounds in the aggregate.

Provided—

(*a.*) The arrear shall have existed for two months; and

(*b.*) The arrear shall have existed for twenty-one days after a demand for payment made in writing; and

(*c.*) The arrear with interest and expenses shall not have been paid before the application is advised.

An interlocutor pronounced under this section appointing a judicial factor shall not be subject to review or appeal.

Power and duties of judicial factor.

33. A judicial factor appointed under the preceding section shall, on finding security in common form, have and exercise all the powers and rights and be subject to all the obligations of the commissioners whose undertaking he is appointed to manage, and the judicial factory shall continue till all arrears, whether of principal, annuities, or interest, due at the date of his appointment, and all such arrears subsequently arising, and all the expenses of the factory, including the expenses of the appointment, shall be paid, whereupon it shall be lawful for the commissioners to apply for the recall of the appointment of the judicial factor to the Court of Session in either division thereof, or in time of vacation to the Lord Ordinary on the bills, who may recall such appointment accordingly.

Mortgages to be personal estate.

34. 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 any rates or charges leviable by them, shall be movable or personal estate, and transmissible as such.

Discharge of mortgages.

35. 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.

36. The commissioners may from time to time apply any moneys borrowed under the authority of this Act with a view to the regular payment of annuities as they fall due; provided that they shall as soon as may be replace any moneys so applied out of any rates or charges which they are empowered to impose and levy under this Act.

Application of money borrowed.

37. 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.

Guarantee rate.

38. 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 may be required to pay any annuities and any interest due thereon, and the interest of money borrowed or to be borrowed under the provisions and for the purposes of this Act.

Assessment and levy of rate.

39. The gas contingent guarantee rate shall be imposed, levied, and collected on property situated within the burgh, on the requisition of the commissioners, by the authority in the burgh empowered by law to levy any assessment for police purposes therein, along with and in the same manner in all respects and from the same descriptions of persons and property as such assessment for police purposes; and the amount of such rate, when imposed, levied, and collected by such authority, shall be paid over to the commissioners for the purposes of this Act. All the powers, enactments, and provisions of law in force for the time with respect to the levying, payment, and recovery of assessments for police

purposes within the burgh shall apply to the levying, payment, and recovery of the gas contingent guarantee rate by this Act authorised to be raised.

Sinking fund.

40. The commissioners shall, in every year after the second year from their commencing to supply gas, set apart as a sinking fund a sum of not less than one-fortieth part of the sums borrowed, until such sums be respectively repaid, 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 bank in Scotland incorporated by Act of Parliament or Royal Charter, or invested in Government or on heritable securities, in the name of "(*name of burgh*) Gas Commissioners," at the discretion of the commissioners, until the same be applied for the purposes before specified.

VI.—*General Provisions.*

Commissioners to fix rates for gas.

41. The commissioners shall from time to time fix the price to be paid for gas to be supplied during any succeeding year or half year, and until such price be altered by the commissioners the price so fixed shall remain in force, provided that the price shall be such as will, as nearly as can be estimated, raise sufficient income to discharge all the costs and expenses of and incident to the manufacture and distribution of the gas made, together with the interest on all money borrowed in respect of the works, and to provide the sinking fund required by this Act, and to provide for a depreciation and renewal fund sufficient to maintain the works in perpetuity and for all charges incident to the occupation of such works, and the moneys received in respect of and incident to the manufacture and distribution of gas shall be applied to such purposes only, and any balance at the termination of any year shall be carried to the debit or credit of the succeeding year: Provided also, that the prices charged shall be the same to all consumers under like circumstances, and the revenue of the gas works shall be credited with an amount for the gas consumed for public purposes, calculated at the rates charged to private consumers, which amount shall be a charge upon the rates leviable for public lighting.

Commissioners may contract to light adjoining burghs.

42. The commissioners may contract with any local authority adjacent to the burgh to supply gas within their respective limits, provided that there is no town council nor commissioners of police nor any gas company entitled (at the date of the passing of this Act) to supply gas within such limits.

Supply of adjacent districts.

43. The commissioners may supply gas to any district adjacent to the burgh not being at the time of the adoption of this Act within the area of supply of any incorporated company, or company authorised by Provisional Order confirmed by Act of Parliament, town council, or other commissioners.

Dispensing with notice as to interference with streets.

44. It shall not be necessary for the commissioners, before they proceed to 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.

Obligation on commissioners as to supply of gas.

45. The commissioners shall, on the request in writing of the owner or occupier of any building or part of a building within one hundred yards of which any main of the commissioners is laid, furnish to such owner or occupier a supply of gas for such building or part of a building on the following conditions; viz.,

First. That the person making such request do, if required by the commissioners, give to them, at his own expense, reasonable security for payment for the gas to be supplied;

Secondly. That such person do pay the cost of and the expenses of laying all necessary pipes for such supply beyond the line of street or road where the main of the commissioners is placed;

Thirdly. That such person do, if required by the commissioners, pay in advance the estimated amount of such cost and expenses;

and any dispute as to any matter arising under the present section shall be settled, upon the application of either party, by the sheriff, whose decision thereof shall be final: Provided that if the commissioners neglect or refuse to furnish a supply of gas to such

owner or occupier, who has fulfilled or is ready to fulfil the conditions herein-before mentioned, they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues.

Gas pipes may be put in buildings.

46. Subject to the provisions contained in this Act, and the Acts 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.

47. Every consumer of gas supplied by the commissioners shall consume the gas by meter; and every meter measuring the consumption of gas, whether such meter is provided by the consumer or the commissioners, shall be subject to the inspection and approval of the officers and servants of the commissioners.

Power to enter buildings to inspect meters, &c., and for ascertaining quantities of gas consumed.

48. Any officer appointed by the commissioners may at all reasonable times enter any building or land lighted with gas supplied by the commissioners, in order to inspect the meters, fittings, and works for the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the commissioners a sum not exceeding five pounds.

Notice to commissioners putting up or removing meters.

49. Before any person shall connect or disconnect any meter through which gas supplied by 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 forfeit and pay to the commissioners a sum not exceeding forty shillings.

Repair of meters.

50. Every consumer of gas supplied by the commissioners shall at all times, at his own expense, keep all meters whereby the consumption of such gas is registered in proper order for correctly registering such consumption, 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 at their own expense if the meter be found in proper order, but otherwise at the expense of the consumer.

Power to commissioners to let meters.

51. The commissioners may let for hire any meter and any fittings thereto, on such terms with respect to the repair of such meter and fittings, and for securing the safety and return of the same to the commissioners, as may be agreed upon between the hirer and the commissioners, and such hire shall be recoverable in the same manner as moneys due to the commissioners for gas; and such meters and fittings shall not be subject to any diligence at the instance of the landlord 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.

Register of meter to be primâ facie evidence.

52. The register of the meter shall be primâ facie evidence of the quantity of gas consumed.

Power to remove meters and fittings.

53. 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 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, then by being affixed on some conspicuous part of such land, house, or building.

Fraudulently injuring meters, &c.

54. 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, notwithstanding any contract previously existing, discontinue the supply of gas to the person so offending until the injury is remedied and the amount of the damages is paid.

For preventing wilful waste of gas.

55. 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 gas supplied by 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.

Pressure of gas.

56. All the gas supplied by the commissioners to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six tenths of an inch, and from sunset to midnight not less than eight tenths of an inch in height at the main, as near as may be to the junction therewith of the service pipe supplying such consumer; and any person appointed for the purpose by the sheriff may, subject to the terms of his appointment, from time to time test the pressure at which the gas is supplied, and may for that purpose open any street, road, passage, or place vested in or under the control of any road authority, and the provisions of this Act with reference to the testing of the illuminating power and purity of gas, and to penalties, shall, mutatis mutandis, apply to such testing of pressure.

Quality of gas.

57. All the gas supplied by the commissioners shall be at least of such quality as to produce from a union jet or other burner approved by the Board of Trade, capable of consuming five cubic feet of gas per hour under a pressure equal to a column of water five tenths of an inch in height, a light equal in intensity to the light produced by fourteen sperm candles of six in the pound burning one hundred and twenty grains per hour.

Commissioners to maintain apparatus to test illuminating power of gas.

58. The commissioners shall, within six months after they begin to supply gas, provide in some convenient part of their works an experimental meter furnished with a union jet or other burner approved by the Board of Trade, capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas, and for testing the presence of sulphuretted hydrogen therein, in accordance with the regulations prescribed in Part I. of the Schedule A. annexed to the Gasworks Clauses Act, 1871, 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.

Provision for testing quality of gas.

59. Any five consumers of gas may, by order in writing, appoint some competent person, not being one of themselves, 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 and purity of the gas by means of the experimental meter and other apparatus by this Act directed to be provided in accordance with the rules prescribed in Part II. of the Schedule A. annexed to the Gasworks Clauses Act, 1871; 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 or purity of the gas supplied by the commissioners did not, when so tested as aforesaid, equal the illuminating power or purity by this and the recited 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, the commissioners shall in any such case be liable in such a penalty, not exceeding twenty pounds, as the sheriff shall determine.

Costs of experiment to be paid according to the event.

60. The costs of 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 the 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 so imposed, such costs shall be paid to the commissioners by the persons complaining.

Recovery of sums owing to commissioners.

61. Where any person fails to pay any gas rent or any rate or any sum whatever due under this Act to the commissioners, the commissioners 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.

Contents of summons or warrant.

62. Any summons or warrant issued for any of the purposes of this Act may contain, in the body thereof or in a schedule thereto, several names and several sums.

Recovery of penalties.

63. All penalties under this Act and under the Acts partially incorporated with this Act may be recovered before the sheriff, under the provisions of the Summary Procedure Act, 1864, at the instance of any person injured by fault of the commissioners when the penalty is exigible from the commissioners, otherwise at the instance of the clerk of the commissioners.

SCHEDULES.

SCHEDULE (A.)

Form of Annuity Certificate.

No.

This is to certify that *A.B.* [*name and designation*] is entitled to receive from the Gas Commissioners of [*insert name of the burgh*] an annuity of pounds, payable on the first day of [*insert date for payment*] in each year, beginning the first payment thereof on the first day of [*insert date*], and so forth for the period of forty years thereafter, and which annuity is preferably secured on the several rates and revenues to be levied and received by the said commissioners under "The Burghs Gas Supply (Scotland) Act, 1876."

Dated this day of one thousand eight hundred and .

[*Signed by two commissioners and treasurer.*]

SCHEDULE (B.)

Form of Transfer of Annuity Certificate.

I, *A.B.* [*name and designation*], in consideration of the sum of pounds [*or other consideration, as the case may be,*] paid to me by *C.D.* [*name and designation*], do hereby transfer to the said *C.D.*, and his executors, administrators, or assignees, the annuity of pounds secured by annuity certificate No. [*as the case may be*] of "The [*insert the name of burgh*] Gas Annuities," created under and by virtue of "The Burghs Gas Supply (Scotland) Act, 1876," now standing in my name in the books of the Gas Commissioners of [*insert name of burgh*], with the rights and privileges and subject to the conditions and provisions specified in the said Act. And I the said *C.D.* do hereby agree to hold the said annuity subject to the same conditions and provisions. In witness whereof [*insert testing clause according to the form of the law of Scotland*].

SCHEDULE (C.)

Form of Mortgage.

Mortgage No.

By virtue of "The Burghs Gas Supply (Scotland) Act, 1876," we, the Gas Commissioners acting under the authority of the said Act for the burgh of [*insert the name of the burgh*], in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the treasurer to the said commissioners for the purposes of the said Act, do hereby grant, convey, and assign to the said [*name of mortgagee*], and his executors, administrators, and assignees [*as the case may be*], the rates and charges to be levied by the said commissioners, under the authority of the said Act, to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied; and it is hereby stipulated that the said principal sum shall be repayable on the [*date*], or shall thereafter in virtue hereof remain as a loan to the said commissioners, for the purposes aforesaid, until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be endorsed hereon, and signed by the said mortgagee or his foresaids and by the treasurer to the said commissioners, and which minute or minutes are hereby declared and shall be held to be valid and binding, though they may be neither holograph of said mortgagee or his aforesaids, or of the said treasurer, nor tested; and for and in respect of interest on the said principal sum to the said date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum), the said commissioners shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof, and delivered herewith, and that at the several times mentioned in such warrants, upon delivery of the same respectively, and such delivery shall be a sufficient receipt and discharge to the said commissioners for the contents of such warrants, declaring that the said mortgagee and his foresaids shall not be entitled to make, and that the said commissioners shall not be bound to recognize or register, any partial assignation of these presents, or of the sums of money, principal or interest, herein contained; and that the said commissioners shall not be liable for any expenses that may be incurred by the said mortgagee or his foresaids for or in relation to the preparation, revision, adjustment, or execution of this mortgage, or of any discharge, renunciation, release, assignation, or minute of postponement or renewal thereof. In witness whereof [*testing clause according to law of Scotland*].

[*Signed by two commissioners and treasurer.*]

SCHEDULE (D.)

Form of Interest Warrant.

[*Name of burgh*] Gas.

Mortgage No. , dated 18 .

Interest Warrant—

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

Payable on the eighteen hundred and , at .

Treasurer.

SCHEDULE (E.)

Form of Discharge.

[*Name of burgh*] Gas.

Received from the treasurer to the Gas Commissioners acting under "The Burghs Gas Supply (Scotland) Act, 1876," on their behalf, the sum of , being the principal sum contained in the within mortgage (all interest due thereon having been paid), and the said mortgage is now delivered up as paid.

Dated this day of eighteen hundred and .