CHAPTER ix.

An Act conferring additional powers on the Bury Saint Edmund's Gas Company. A.D. 1879.

[23d May 1879.]

WHEREAS by the Bury Saint Edmund's Gas Act, 1849, (in this Act referred to as the Act of 1849,) the Bury Saint Edmund's Gas Company (in this Act called the Company) were incorporated, and were authorised to make and maintain gasworks, and to manufacture and supply gas within the town and borough of Bury Saint Edmund's, and were authorised to raise a capital of twelve thousand pounds in shares of ten pounds each, and to borrow on mortgage or bond not exceeding four thousand pounds: 12 & 13 Vict. c. xxi.

And whereas the amount which the Company were so authorised to borrow included a sum of two thousand five hundred pounds, which the Commissioners under certain Acts of the fifty-first year of King George the Third and the first year of King George the Fourth respectively, for paving, lighting, cleansing, watching, and otherwise improving the town of Bury Saint Edmund's (in this Act called the Paving Commissioners), were by the Act of 1849 authorised to lend to the Company on the security of their gasworks and other property without interest, upon the terms and in the manner provided by that Act: 51 G. 3. c. ix. 1 G. 4. c. lxi.

And whereas under the authority of the Act of 1849 the Company raised the capital of twelve thousand pounds by twelve hundred shares of ten pounds each, and all those shares are fully paid up:

And whereas the Company under the powers of the Act of 1849 have borrowed the sum of four thousand pounds, as to the sum of two thousand five hundred pounds, part thereof, from the Paving Commissioners upon the security and on the terms and in the manner respectively provided by the recited Act, and as to the sum of one thousand five hundred pounds, residue thereof, from

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other persons, which last-mentioned sum the Company has since repaid:

22 & 23 Vict. c. xlii.

And whereas by the Bury Saint Edmund's Gas Act, 1859, (in this Act referred to as the Act of 1859,) after reciting to the purport and effect herein-before recited, and further reciting that in order to enable the Company to complete their gasworks they had incurred a debt of one thousand eight hundred pounds or thereabouts chargeable against capital, but they were not otherwise in debt on capital account, and that their then engines, retorts, apparatus, and mains were insufficient to meet the demands for the supply of gas within the limits of the recited Act, and that it was expedient that the Company should be authorised to raise further sums by shares and by borrowing, but without prejudice to their arrangements with the Paving Commissioners, the Company were thereby authorised to raise an additional capital of eighteen thousand pounds by new shares (which said additional capital was thereby declared to be part of the general capital of the Company), and the dividends upon which were limited to seven pounds ten shillings per centum per annum on an average of the three then preceding years, and the rate of seven pounds ten shillings per centum per annum was declared to be the prescribed rate of dividend under the

10 & 11 Vict. c. 15.

Gasworks Clauses Act, 1847; and the Company were authorised to borrow on mortgage or bond any sums not exceeding in the whole the sum of nine thousand pounds, provided that so much of their then mortgage or bond debt of four thousand pounds then raised, as from time to time should remain secured, should be deemed to have been raised by the Company in exercise of the powers of the now reciting Act, and as part of that sum of nine thousand pounds, and provided also that the Company should not borrow any sum exceeding the said four thousand pounds until the whole of the new capital was subscribed for, and one half thereof was actually paid up:

And whereas the whole amount of the said additional capital of eighteen thousand pounds has been raised by the creation of new shares of ten pounds each, upon each of which shares nine pounds have been paid up, and the remaining sum of one pound upon each such share has been called up:

And whereas there are no preferential shares in the capital of the Company:

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

And whereas it is also expedient that the herein-before recited Acts should be in some respects amended, and that the further powers herein-after contained should be granted to the Company:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

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

Short title.

1. This Act may for all purposes be cited as the Bury Saint Edmund's Gas Act, 1879.

Recited Acts and this Act to be read as one.

2. The recited Acts, as amended by this Act, and this Act shall be construed and be executed and have effect as if they were one Act.

Incorporation of general Acts. 26 & 27 Vict. c. 118. 32 & 33 Vict. c. 48. 34 & 35 Vict. c. 41.

3. Part I. (cancellation and surrender of shares), and Part II. (additional capital), and Part III. (debenture stock) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, are, subject to the provisions of this Act, incorporated with and form part of this Act, and the Gasworks Clauses Act, 1871, shall apply to the existing works of the Company as if the same had been authorised by this Act.

Interpretation of terms.

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

Power to Company to raise additional capital.

5. The Company may from time to time raise (in addition to their present capital) any further capital, not exceeding in the whole twenty thousand pounds, by the creation and issue of new ordinary shares or stock or new preference shares and stock, or wholly or partially by one or more of those modes respectively, but the Company shall not issue any share of less nominal value than ten pounds, nor shall any such share or stock vest in the person or corporation accepting the same, unless and until the full nominal amount of such share or stock, together with any premium obtained upon the sale thereof, shall have been paid in respect thereof: Provided that it shall not be lawful for the Company to create and

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issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce, including any premiums which may be obtained on the sale thereof, the sum of twenty thousand pounds: Provided also, that the Company shall not create and issue within the year following the passing of this Act any greater nominal amount of capital than shall be sufficient to produce in manner aforesaid eight thousand pounds, or within any subsequent year four thousand pounds.

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

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

Debenture stock.

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

Application of money raised under this Act.

8. All moneys raised under this Act shall be applied to the purposes of the Company authorised by their Acts of 1849 and 1859 respectively and this Act to which capital is properly applicable, and not otherwise.

Profits of Company limited.

9. The Company shall not in any one year make out of their profits any larger dividend on the additional share capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

Dividends on various classes of shares or stock to be paid proportionately.

10. In case in any year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary shares or stock in the capital of the Company, a proportionate deduction shall be made in the dividend in each such class.

As to votes of proprietors of such shares or stock.

11. The proprietors of any shares or stock to be created and issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount repre-

sented by such shares or stock would have entitled them to if the same had been original shares or stock of the Company, and the proprietors of such shares or stock shall, except as in this Act specially provided, be entitled to the same dividends and the same rights and privileges in all respects, and be subject to the same obligations and liabilities, as the proprietors of the original shares or stock of the Company.

Preference stock or share holders not entitled to vote except with consent of Company.

12. No person shall be entitled to vote in respect of any stock or share to be created under this Act, to which a preferential dividend shall be assigned, unless the Company shall at the time of the creation and issue of such preference stock or shares have determined otherwise.

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

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

Purchase money of shares or stock to be paid within three months.

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

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

15. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the town clerk and to the secretary of the Committee of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders, as the case may be, and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the borough.

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Shares or stock not sold by auction or tender to be offered to share or stock holders.

16. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold, the same shall be offered, at the reserved price put upon the same respectively for the purpose of sale by auction or tender, to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act, 1863: Provided always, that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender, in the manner and subject to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act: Provided further, that any shares or stock so offered for sale by public auction or tender more than once and not accepted as aforesaid, may be dealt with by the directors of the Company and for the benefit of the Company in such manner as such directors shall in their absolute discretion think proper.

Application of premium arising on issue of shares or stock.

17. Any sum of money which shall arise from the issue of any such shares or stock by way of premium, after deducting therefrom the expenses of and incident to such issue, shall not be considered as profits of the Company, but shall be expended in extending or improving the works of the Company, or in paying off money borrowed or owing on mortgage by the Company, without prejudice to the arrangement as to the aforesaid two thousand five hundred pounds borrowed of the Paving Commissioners, and shall not be considered as part of the capital of the Company entitled to dividend.

If profits exceed the amount limited, part thereof may be invested and form an insurance fund.

18. If the clear profits of the undertaking of the Company in any year amount to a larger sum than is sufficient to pay the standard rates of dividend, the excess beyond the sum necessary for that purpose may from time to time to the extent of one per centum per annum upon the paid-up capital of the Company be invested in Government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities in order that the same may accumulate at compound interest until the fund so formed amounts to a sum equal to one twentieth of the paid-up capital of the Company, which sum shall form an insurance fund to meet any extraordinary claim, demand, or charge which may at any time arise against or fall upon the Company from accident, strikes, or other circumstances which in the opinion of a justice due care and management could not have prevented, and if such fund be at any time reduced it may thereafter be again made up to the said sum, and so from time to time as often as such reduction shall happen: Provided that when and so often as the said fund shall reach one-twentieth part of the

paid-up capital the interest thereon shall be carried to the credit of the fund available for dividend: Provided also, that resort may from time to time be had to the insurance fund to meet any extraordinary claim or demand as aforesaid, although such fund may not at the time have reached or may have been reduced below the full amount of one twentieth as aforesaid.

Application of excess of profits over standard rates of dividend.

19. If the clear profits of the undertaking of the Company in any year amount to a larger sum than is sufficient to pay the standard rates of dividend on the ordinary share capital or stock of the Company, the excess or such portion of it as is not carried to the insurance fund shall be carried to the credit of the divisible profits of such undertaking for the next following year.

Power to create a reserve fund out of dividends in excess of the standard rates, and application thereof.

20. Where in any year the amount of the standard rate of dividend of the Company on the ordinary share capital or stock of the Company shall, by reason of a diminution of the standard price charged by the Company in such year be increased, then out of the amount of the divisible profits of the Company applicable to the payment of such increase the Company may in such year set apart such sum as they shall think fit, and all sums (if any) so set apart by the Company, and any reserve or other fund of the Company existing at the passing of this Act, may be invested in Government or other securities, and the dividends and interest arising from such securities may also be invested in the same or the like securities, in order that the same may accumulate at compound interest; and the fund so formed shall be called "The Reserve Fund," and shall be applicable to the payment of dividend in any year in which the clear profits of the Company shall be insufficient to enable the Company in such year to pay the standard rate of dividend on the ordinary share capital or stock of the Company; and, save as in this Act otherwise provided, no sum shall in any year be carried by the Company to any reserve fund.

Power to borrow.

21. The Company may at any time and from time to time after the passing of this Act, but subject and without prejudice nevertheless to the arrangement as to the aforesaid sum of two thousand five hundred pounds borrowed of the Paving Commissioners, borrow on mortgage any sum or sums of money not exceeding the residue of the amount by the Act of 1859 authorised to be so raised.

Power to borrow in respect of additional capital.

22. In addition to the sum or sums which the Company are authorised to borrow by the last preceding section, they may from time to time, but subject and without prejudice nevertheless to the arrangement as to the aforesaid sum of two thousand five hundred pounds borrowed of the Paving Commissioners, borrow on mortgage in respect of the additional capital by this Act authorised to be

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raised by shares or stock any sums not exceeding in the whole five thousand pounds; and the Company may, as each sum of five thousand pounds of such additional capital has been issued and accepted, and one half of the amount of each such sum has been paid up, borrow on mortgage in respect of each such sum of five thousand pounds any sum or sums not exceeding in the whole one thousand two hundred and fifty pounds, but in no case shall any part of the said respective sums be borrowed until the Company shall have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of such capital in respect of which such borrowing powers are sought to be exercised has been issued and accepted, and that one half thereof has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the same portion of capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such additional shares or stock, as the case may be, were issued and accepted bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the same portion of capital is raised by shares, that such persons or corporations are legally liable for the same; and upon production from time to time to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

8 & 9 Vict. c. 16.

Appointment of receiver.

23. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

As to conversion of borrowed money into capital.

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

Priority of existing mortgages.

25. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and

subsisting at the passing hereof, shall, during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted, have priority over all mortgages to be granted by virtue of this Act; but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Priority of mortgages over other debts.

26. All money raised or to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company, and the property from time to time of the Company, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act.

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

27. The standard price to be charged by the Company for gas supplied by them to persons who shall burn the same by meter within the limits of their undertaking shall not at any time exceed four shillings and sixpence per one thousand cubic feet: Provided that the Company may increase or diminish such standard price subject to a decrease or increase in the standard rate of dividend as defined by the several Acts relating to the Company, to be calculated as follows:

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

Pressure of gas.

28. All gas supplied by the Company 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 gas examiner appointed under the Gasworks Clauses Act, 1871, 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 local or road authority; and the provisions of the Gasworks Clauses Act, 1871, with reference to testing of gas and to penalties, shall, mutatis mutandis, apply to such testing of pressure, and two hours previous notice shall be given to the Company of the time and place at which such testing shall be conducted.

Quality of gas.

29. The prescribed number of candles shall be fourteen.

Testing place.

30. Within six months from the passing of this Act a testing place shall be provided upon some part of the works or lands of the Company.

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Burner.

31. The prescribed burner shall be Sugg's Number 1 London Argand Burner, consuming five cubic feet of gas per hour, with a six-inch by one-and-three-quarter-inch glass chimney; and if at any time the gas flame rise above the top of the glass, a six-inch by two-inch chimney shall be used.

Company to pay interest on deposit.

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

Power to hold licenses under letters patent.

33. The Company may take, hold, and use patent rights or licenses or authorities (not being exclusive) under any letters patent for the use of any invention relative to the manufacture, conversion, utilisation, or distribution of gas, and of such materials and residual products as aforesaid, but this power is not to prejudice the arrangement made by the Company with the Paving Commissioners under the Act of 1849 to supply them with gas for the public lamps at cost price during such period as the mortgage debt due by the Company to the Paving Commissioners as herein-before recited shall be subsisting.

Notices to Company to be in writing, &c.

34. No notice to the Company to discontinue the use of any gas supplied by them shall be of any effect unless such notice shall be in writing, and shall be left at the principal office for the time being of the Company.

Liability to gas rent, &c. not to disqualify justice, &c.

35. No judge of a county court or justice shall be disqualified from acting in the execution of this Act, or the Acts of 1849 and 1859 respectively, by reason of his being liable to any gas rent, meter rent, or other charge under this Act, or the Acts of 1849 and 1859 respectively.

Saving rights of Paving Commissioners.

36. Nothing in this Act contained shall take away, lessen, prejudice, or alter any of the rights, authorities, interests, claims, or demands of the Paving Commissioners as mortgagees of the Company, or any arrangement made between them with respect to interest on the mortgage debt of the Paving Commissioners or a supply of gas by the Company so long as such mortgage debt shall be subsisting.

Expenses of Act.

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

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1879.