CHAPTER clxxxiv.

An Act to authorise the City of Waterford Gas Company to raise additional Capital; and for other purposes. A.D. 1877.

[2d August 1877.]

WHEREAS by the City of Waterford Gas Act, 1858, (in this Act called "the Act of 1858,") the City of Waterford Gas Company (in this Act called "the Company") were incorporated, and were empowered to supply the borough, city, and county of the city of Waterford with gas, and the Company have erected gasworks on the lands described in the schedule to this Act: 21 & 22 Vict. c. lv.

And whereas by the recited Act the capital of the Company was declared to be sixteen thousand pounds, divided into sixteen hundred shares of ten pounds each, and they were empowered to borrow on mortgage four thousand pounds:

And whereas the Company have, in exercise of the powers conferred upon them by the recited Act, raised and expended upon their undertaking the whole of the money which they were authorised to raise by that Act, and they have in addition thereto expended on their said undertaking a sum of six thousand seven hundred and sixty-seven pounds out of their current annual revenue applicable to dividend:

And whereas by articles of agreement bearing date the thirtieth day of January one thousand eight hundred and seventy-three, entered into between the Company on the one part and George Anderson and Robert Hesketh Jones (therein described and designated as "the managers") of the other part, the said managers were constituted joint managers of the works and business of the Company at Waterford, and also contractors for making and supplying gas for the Company for the term of fourteen years, calculated from the twenty-fifth day of June one thousand eight hundred and seventy-two:

And whereas the said George Anderson is now the sole manager and contractor to the Company for the residue of the said term of fourteen years:

A.D. 1877.

And whereas the business of the Company has increased, and the Company require further capital to enable them effectually to carry on their undertaking:

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:

Short title.

1. This Act may be cited for all purposes as "The City of Waterford Gas Act, 1877."

Act of 1858 and this Act to be construed as one Act.

2. The Act of 1858 as varied by this Act and this Act shall be read and construed and shall have effect as if they were one Act.

Certain provisions of Acts herein named incorporated.

3. Subject to the provisions of this Act, the clauses and provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following matters; (that is to say,)

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The remedies of creditors of the Company against the shareholders;

The consolidation of the shares into stock;

The general meetings of the Company, and the exercise of the right of voting by the shareholders;

The making of dividends;

The giving of notices;

The provision to be made for affording access to the special Act by all parties interested;

"The Gasworks Clauses Act, 1871;" and Parts I., II., and III. of "The Companies Clauses Act, 1863," as amended by "The Companies Clauses Act, 1869," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Defining capital of Company.

4. The capital of the Company shall, subject to the augmentation herein-after mentioned, be eighteen thousand pounds, whereof sixteen thousand pounds, representing the original capital of the Company, shall be divided into sixteen hundred shares of ten pounds each, and which shall be called A shares; and two thousand pounds, portion of the sum of six thousand seven hundred and sixty-seven pounds, the amount expended on works out of

profits applicable to dividend, shall be divided into two hundred new shares of ten pounds each, and which class of shares shall be called B shares.

Allotment of new shares.

5. The said new shares shall be allotted as fully paid up rateably to the several persons and corporations who immediately before the passing of this Act were possessed of or entitled to one or more of the existing shares of the Company, in proportion to the number of their said shares, and such new shares shall vest in such persons and corporations accordingly.

Appropriation of existing shares.

6. The existing shares shall remain vested in the respective shareholders upon the same trusts, and subject to the same powers, provisions, declarations, agreements, charges, liens, and incumbrances, as immediately before the passing of this Act affected the said existing shares respectively, and so as to give effect to and not revoke any testamentary disposition of or affecting such shares.

Company to call in and cancel existing share certificates and issue new certificates in lieu thereof.

7. The Company shall call in and cancel the existing certificates of shares in the Company, and issue in lieu thereof new certificates in the form and under the conditions prescribed by the Companies Clauses Consolidation Act, 1845; but the holders of such existing certificates of shares shall not be entitled to any certificates of proprietorship under this Act until they shall have delivered up to the Company to be cancelled the certificates of proprietorship issued to them before the passing of this Act, or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

Power to Company to raise additional capital.

8. The Company may from time to time raise, in addition to the said sum of eighteen thousand pounds, any further sums, not exceeding in the whole sixteen thousand pounds, by the creation and issue of new ordinary shares or new preference shares, or wholly or partly by either of those modes, and such shares shall be called C shares: Provided always, that the Company shall not issue any share of less nominal value than ten pounds, nor shall any such share vest in the person or corporation accepting the same until a sum not being less than one fifth of the amount of such share has been paid thereon.

New C shares to be offered by auction or tender.

9. Notwithstanding anything in this Act contained, the Company shall, when any such C shares created under the powers of this Act are to be issued, and before offering the same to the holder of any other 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 con-

A.D. 1877.

ditions of sale as the Company shall from time to time determine: Provided that at any such sale 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.

As to notice to be given as to sale, &c. of shares.

10. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the town clerk of the borough of Waterford 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 said borough.

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

11. When any such shares 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 at any such auction a bidder who holds shares in the Company shall, in the event of equal biddings, be declared the purchaser in preference to another bidder who is not a shareholder.

Application of excess of profits over standard rates of dividend.

12. 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, and shall not be considered as part of the capital of the Company entitled to dividend.

Limits of dividends on new capital.

13. Except as in this Act specially provided, the Company shall not in any year pay out of their profits any larger dividend on the B shares than five pounds in respect of every one hundred pounds,

nor on the C shares than seven pounds in respect of every one hundred pounds actually paid of such capital on ordinary shares, or six pounds in respect of every one hundred pounds actually paid of such capital on preference shares.

Dividends on different classes of stocks or shares to be paid rateably.

14. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the maximum rate of dividend to which each class, except class B, of ordinary stock or shares in the capital of the Company is entitled, a rateable deduction shall be made in the dividend of each class.

Receipts of guardians, &c. to be sufficient discharge.

15. If any money be payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company for the same.

Power to borrow on mortgage.

16. The Company may from time to time, under the powers of this Act, borrow on mortgage, in respect of their additional capital of sixteen thousand pounds hereby authorised, the sum of four thousand pounds; but no part of the said sum of four thousand pounds shall be borrowed until the whole of the said additional capital is issued and accepted, and that one half thereof is paid up, and the Company have proved to the justice who is to certify under the provisions contained in the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of the said additional capital of sixteen thousand pounds 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 that such capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production 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 proofs aforesaid have been given, which shall be sufficient evidence thereof.

Arrears to be enforced by the appointment of a receiver.

17. 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; and in order to authorise the appointment of a receiver in respect of principal, the amount owing to the mortgagees by whom the application for such receiver shall be made shall not be less than five hundred pounds in the whole.

A.D. 1877.

Power to create debenture stock.

18. 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 after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

19. All moneys raised under this Act by the Company, whether by shares, debenture stock, or borrowing, shall be applied only for the purposes of the Act of 1858 or of this Act.

As to conversion of borrowed money into capital.

20. 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.

21. All mortgages granted by the Company in pursuance of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, have priority over any mortgages 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.

22. All moneys raised on mortgage by the Company under this Act, and the interest due thereon, shall have priority against the Company, and the property from time to time of the Company, over all other claims on account of debts incurred or engagements entered into by the Company after the passing of this Act.

Dividend dependent upon price charged.

23. The standard price to be charged by the Company for gas supplied by them shall be five shillings and ninepence per thousand cubic feet, subject to a discount of fifteen per cent. upon any payment for gas so supplied made within one month after delivery of notice to the consumer of the amount due: Provided that the Company may increase or diminish such standard price, subject to such discount as aforesaid, and subject to a decrease or increase in the standard rates of dividend as defined by this Act, to be calculated as follows:

For every penny charged in excess or in diminution of such standard price, subject to such discount as aforesaid, in any

year, the standard rates of dividend shall for such year be reduced or increased by five shillings in the hundred pounds per annum.

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

24. 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.

Excess of dividend not carried to insurance fund to be carried to credit of profits of next year.

25. 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 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 of dividend, and application thereof.

26. Where in any year the amount of the standard rates of dividend 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

A.D. 1877.

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.

Quality of gas.

27. All the gas supplied by the Company shall be of such quality as to produce from a Sugg's London Argand burner, Number One, with a six-inch chimney, and consuming five cubic feet per hour, a light equal in intensity to the light produced by fourteen sperm candles burning one hundred and twenty grains per hour.

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.

Company to erect meter.

29. The Company shall, within six months after the passing of this Act, cause to be erected in some convenient part of the works an experimental meter furnished with Sugg's London Argand burner, Number One, with a six-inch chimney, and capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas.

Company to pay interest on money deposited as security for meters, &c.

30. 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.

31. With respect to the Post Office telegraph system the following provisions shall take effect:

Restriction on works affecting Post Office telegraph system.

(A.) The Company shall not by any work or thing interfere with any telegraph post, wire, tube, apparatus, or work of Her Majesty's Postmaster General, or execute or do any work or thing causing or likely to cause any interruption of or impediment to postal telegraphic communication, unless and until the Company have given to the Postmaster General one calendar month's previous notice in writing of their intention to execute or do the proposed work or thing, specifying all necessary and proper particulars relating thereto, and unless and until the Postmaster General has approved of the proposed work or thing by writing delivered to the Company, or has failed to approve or to disapprove of the same for one calendar month after service of such notice and particulars on him: Provided always, that this section shall not be deemed to prevent the Company executing any repairs or other works or things which shall be necessary to prevent accidents, and in any such case the Company shall forthwith give notice to the Postmaster General of any such interference, and the reason for the same:

Power for Postmaster General to annex conditions.

(B.) Her Majesty's Postmaster General may annex to his approval under this Act of any work or thing such reasonable terms and conditions as to the time and mode of execution of any such work or thing as he thinks fit, and the Company shall observe and perform the same:

Power of entry for Postmaster General.

(C.) The engineer and other officers and servants and workmen of Her Majesty's Postmaster General may, at and for all reasonable times, enter on and into and remain on any of the lands and works of the Company for the purpose of examining, repairing, altering, or removing any telegraph post, wire, tube, apparatus, or work the property of the Postmaster General being thereon:

Compensation by Company to Postmaster General, and penalty.

(D.) The Company shall from time to time make full compensation to Her Majesty's Postmaster General for any expense, loss, or damage which he is put to or sustains by reason of the Company, by any work or thing executed or done by them, interfering with any telegraph post, wire, tube, apparatus, or work of the Postmaster General; and if at any time any such work or thing causes an interruption of or impediment to postal telegraphic communication, the Company shall, in addition to making compensation as

A.D. 1877.

aforesaid, be liable to forfeit a sum not exceeding twenty pounds for every twenty-four hours during which that interruption or impediment continues; and the amount of any such expense, loss, damage, or forfeiture shall be a debt due from the Company to the Crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, on behalf of the Postmaster General as a penalty is recoverable from the Company:

Provisions to remain in force for one year and to the end of the then next session of Parliament.

(E.) Inasmuch as it is contemplated to introduce a general measure for the better protection of the national telegraphs, and to enlarge the powers of the Postmaster General in relation thereto, this section shall only remain in force for one year from the date of the passing of this Act, and to the end of the then next session of Parliament.

Power to Board of Trade to appoint an auditor of Company's accounts.

32. It shall be lawful for the Board of Trade, at the request of the Corporation of Waterford, from time to time to appoint an auditor of the Company's accounts, who need not be a shareholder in the Company, and the said auditor shall be entitled to all the rights and privileges of any auditor appointed by the Company, on a certificate of his appointment from the Board of Trade being deposited at the office of the Company addressed to the secretary; provided that the said auditor shall be paid by the corporation.

Power to corporation to purchase undertaking if authorised by Parliament to do so.

33. In case the said corporation shall, within three years from the passing of this Act, at any time resolve to purchase the undertaking of the Company at any meeting of the council specially convened for that purpose, and shall intimate such resolution to the Company, and shall be authorised by Parliament to acquire the undertaking, in case the corporation and the Company cannot agree upon the terms of purchase, the Act to be obtained shall provide that the price or consideration to be paid to the Company for the undertaking shall be determined by arbitration, under the provisions of "The Lands Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

Expenses of Act.

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

SCHEDULE referred to in the foregoing Act.

Certain lands, two and a half acres or thereabouts in extent, situate in the parishes of St. John Without, in the borough of Waterford, bounded on the north by St. John's Pill, on the west partly by a field or premises in the possession of the assigns of the late James Walpole, and partly by a certain common passage situate between the said premises and the existing gasworks, on the south-west by a certain field now or lately in the possession of George McClelland, and on the south-east and on the east by certain fields belonging to the assigns of the said late James Walpole.

LONDON : Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1877.