CHAPTER xxxix.

An Act to authorise the Cleethorpes Gas Company to erect additional Works; to raise further Capital; and for other purposes. [14th June 1875.]

A.D. 1875.

WHEREAS by the Cleethorpes Gas Act, 1866, (herein-after called the Act of 1866,) the Cleethorpes Gas Company (in this Act called the Company) were incorporated, and powers were conferred upon them enabling them to maintain the gasworks in that Act described, and to light with gas the parish of Clee, and the townships, hamlets, or villages of Clee, Cleethorpes, Itterby, Oole, Thrunscoe, and all other townships, hamlets, or villages within the parish of Clee in the county of Lincoln: 29 & 30 Vict. c. xcvii.

And whereas by the Act of 1866 it was provided that the capital of the Company should be ten thousand pounds, in one thousand shares of ten pounds each, and the Company were empowered to borrow from time to time any sums not exceeding in the whole two thousand five hundred pounds:

And whereas the whole of the said capital of ten thousand pounds has been paid up and expended by the Company for the purposes of their undertaking:

And whereas, by reason of the increased and increasing demand for gas within the limits the Company is authorised to supply, it is necessary, in order to enable them to meet such demands, that they should add to and extend their works, and it is expedient that for these purposes, and for the general purposes of their undertaking, they should be empowered to raise additional capital in manner by this Act authorised:

And whereas it is expedient that the Company be empowered to take additional lands in the parish of Clee for the purposes of their undertaking:

And whereas in the events which have happened since the passing of the Act of 1866 the maximum price prescribed by that Act to be charged by the Company for gas has from divers causes beyond

A.D. 1875.

the control of the Company been found to have been fixed so low as not to give the Company a remunerative return upon the capital expended by them, and it is expedient that section forty-five of the Act of 1866 should be amended, and that in this and other respects the powers and provisions of that Act should be amended and enlarged:

And whereas plans describing the lands which may be taken under this Act, and a book of reference to those plans, containing the names of the owner or reputed owner, and of the occupiers of those lands, and describing the same, have been deposited with the clerk of the peace for the parts of Lindsey in the county of Lincoln (which plans and book of reference are in this Act referred to as the deposited plans and book of reference):

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; (that is to say,)

Short title.

1. This Act may be cited for all purposes as The Cleethorpes Gas Act, 1875.

The Act of 1866 and this Act to be read as one Act.

2. The Act of 1866, as amended by this Act, and this Act shall be read and construed together as one Act.

Provisions of certain general Acts incorporated.

3. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the several matters following; (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 forfeiture of shares for nonpayment of calls;

The remedies of creditors of the Company against the shareholders;

The consolidation of 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 borrowing of money by the Company on mortgage or bond;

The conversion of the borrowed money into capital;

The giving of notices, and the provisions for affording access to the special Act;

and Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (debenture stock) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, and the Gasworks Clauses Act, 1847, are (so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act) hereby incorporated with this Act; and the Gasworks Clauses Act, 1871, (save where modified or excepted by this Act,) shall apply to the entire undertaking of the Company, as if the same were hereby authorised.

Interpretation.

4. The several words and expressions to which by the Acts in whole or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless there be in the subject or context something repugnant to such construction; the expression "superior courts" or "courts 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; and the words "share" and "shareholders" respectively include, where necessary and proper, stock and stockholders.

Power to raise additional capital.

5. The Company may from time to time, subject to the provisions of Part II. in the Companies Clauses Act, 1863, raise any additional capital, not exceeding in the whole ten thousand pounds, by the issue, at their option, of new ordinary shares or stock,or new preference shares or stock, or wholly or partially by any 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 share or stock vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share, or, as the case may be, the full amount of such stock, shall have been paid in respect thereof.

Calls.

6. One fifth of the amount of a share shall be the greatest amount of a call, and two months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipts on behalf of incapacitated persons.

7. If any money be payable to a shareholder being a minor, idiot, lunatic, or person not sui juris, the receipt of the guardian or committee of his or her estate shall be a sufficient discharge to the Company.

A.D. 1875.

New capital and original capital to be entitled to same rights.

8. Except as by this Act otherwise provided, the capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares or stock were shares or stock in that capital.

New capital to form part of general capital.

9. The capital in new shares or stock so created shall form part of the general capital of the Company.

Limitation of dividend on additional capital.

10. The dividends payable upon the additional capital authorised to be raised by this Act shall not exceed the rates per centum per annum upon the amount actually paid up following; (that is to say,) upon such of the said additional capital as shall be raised by preference shares or preference stock six pounds per centum per annum, and upon such of the said additional capital as shall be raised by ordinary shares or ordinary stock seven pounds per centum per annum.

If revenue insufficient to pay full dividend a rateable deduction to be made.

11. 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 prescribed maximum rate of dividend on each class of ordinary stock or shares in the capital of the Company, a rateable deduction shall be made in the dividend in each class.

Power to borrow.

12. The Company may from time to time, in addition to the sums authorised to be borrowed by the Act of 1866, borrow on mortgage any sum or sums not exceeding in the whole two thousand five hundred pounds, at the times and subject to the restrictions herein-after contained; (that is to say,) as and when each sum of four thousand pounds of the additional capital hereby authorised to be raised has been issued and accepted, and one half thereof has been paid up and certified as herein-after mentioned, the sum of one thousand pounds in respect of each such sum of four thousand pounds, and when the last two thousand pounds of such additional capital has been issued and accepted, and one half thereof has been paid up and certified as herein-after mentioned, the Company may borrow the sum of five hundred pounds in respect of such sum of two thousand pounds, but no part of any such sum shall be borrowed until the Company have from time to time 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 required amount of additional capital 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 said additional 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 shares or stock, as the case may be, were issued and accepted and paid up 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 if the capital is raised by shares that such persons or corporations, or their executors, administrators, successors, or assigns, 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.

Priority of existing mortgages.

13. All mortgages and bonds granted by the Company in pursuance of the Act of 1866 before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages and bonds, 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.

As to conversion of borrowed money into capital.

14. 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 or of the Act of 1866, 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.

Repeal of section 26 of Act of 1866.

15. Section twenty-six of the Act of 1866 is hereby repealed, provided that such repeal shall not prejudice or affect any appointment of a receiver heretofore made, or any proceedings now pending for the appointment of a receiver.

For appointment of a receiver.

16. 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 tenth of the amount which the Company then owe on mortgage.

Debenture stock.

17. The Company may create and issue debenture stock at such rate of interest as they think fit, not exceeding the rate of six pounds

A.D. 1875.

per centum per annum, 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 equally 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.

Priority of mortgages over other debts.

18. All moneys raised on mortgage by the Company under this Act, and the interest due thereon, and the interest due on debenture stock created and issued under 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 debts incurred or engagements entered into by the Company after the passing of this Act, but this priority shall not affect any claim against the Company in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, nor shall anything hereinbefore contained affect any claim for land taken, used, or occupied by the Company for the purposes of their works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application of money raised under this Act.

19. All money raised under this Act, either by the creation and issue of shares or stock or debenture stock, or by borrowing, shall be applied to the general purposes of the Company's undertaking, and not otherwise.

Power to take lands.

20. Subject to the provisions of this Act, the Company may from time to time enter on, purchase, take, hold, and use the lands described in the deposited plans and book of reference, or such of them as they require for the purposes of this Act.

Power to erect gas-works.

21. Subject to the provisions of this Act, the Company may, upon the lands now belonging or reputed to belong to them, and which are described in the second schedule to this Act, and also upon the lands described in the third schedule to this Act when acquired by them, erect, construct, make, and from time to time maintain, alter, remove, and enlarge works for the manufacture and storage of gas, and of the several residual products, matters, and things arising or obtainable from the manufacture of gas, and such other works, buildings, appliances, and conveniences necessary for the manufacture, storage, and distribution of gas, or the manufacture, conversion, utilization, and storage of such residual products, matters, and things as aforesaid.

Power to take additional lands

22. The Company may from time to time by virtue of this Act, in addition to the lands they are authorised to take compulsorily

under this Act, and in addition to any extent of lands which they now hold, or are authorised to take by agreement (independently of this Act), purchase or take by agreement and hold any lands within their limits, not exceeding in quantity three acres, which they may from time to time require for the purposes of their works and undertaking, but no lands shall be used by the Company for the purposes of manufacturing gas or residual products except the lands described in the first, second, and third schedules to this Act.

by agreement.

23. Subject to the provisions of this Act the Company may in and at the works to be erected by them under this Act, as well as at their existing works, manufacture and store gas, and the various residual products, matters, and things arising or obtainable from the manufacture of gas.

Power to manufacture gas.

24. The Company may contract for, take, and use, but not so as to obtain an exclusive right thereto, any leave, license, or authority to work, use, exercise, or put in practice any invention or inventions under letters patent at any time heretofore made or hereafter to be made granting any right or privilege of working, using, exercising, or vending any invention in relation to the manufacture, distribution, supply, or measurement of gas, or to the utilization of the residual products arising from the manufacture of gas, or otherwise in relation thereto, and may provide and do all such things as they may deem expedient for the purposes of the general and incidental business of a gas company.

Patent rights.

25. Section thirty-four (fixing the qualification of directors) and section forty-five (limiting the price of gas) of the Act of 1866 are hereby respectively repealed; provided that as regards section thirty-four such repeal shall not apply to or affect any director of the Company now in office, or who being at the passing of this Act a director may be hereafter re-elected, and as regards section forty-five, such repeal shall not apply to or affect any contract entered into between the Company and any consumer for the supply of gas which shall be in existence at the time of the passing of this Act.

Repealing sections 34 and 45 of the Act of 1866.

26. The qualification of a director other than the present directors of the Company elected after the passing of this Act shall be the possession in his own right of not less than twenty shares.

Qualification of future directors.

27. From and after the passing of this Act the price to be charged by the Company for gas supplied to persons who shall consume the same by meter shall not exceed six shillings and ten-pence per one thousand cubic feet.

Limiting price of gas.

28. For the purpose of the application of the Gasworks Clauses Act, 1871, to the undertaking of the Company, this Act shall be deemed the special Act, and the prescribed number of sperm candles

For making applicable certain provisions of

A.D. 1875.

the Gasworks Clauses Act, 1871.

shall be fourteen, and the prescribed burner (any provision to the contrary in section forty-eight of the Act of 1866 to the contrary notwithstanding) shall be Sugg's London Argand Number 1 burner, with a six-inch by one-and-three-quarters-inch glass chimney, and consuming five cubic feet of gas per hour, or other burner and chimney approved for the purpose by the Board of Trade, and the prescribed place for testing the gas shall be at the works of the Company, and the prescribed time shall be the time prescribed by the Act of 1869.

Testing place.

29. From and after the passing of this Act the prescribed testing place shall be the place now or hereafter provided in accordance with section 55 of the Act of 1866, and the Company may continue to use the photometer and other apparatus for testing the quality of the gas now used by them and provided in accordance with the provisions in that behalf contained in the Act of 1866, provided that the Company shall at all times thenceforth provide and maintain such photometer and testing apparatus in proper working order and fit for immediate use in accordance with this Act.

Pressure.

30. All gas supplied by the Company to any consumer 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, or 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.

Authentication of notices.

31. Any summons, warrant, demand, or notice, or other such document to be issued or given for any of the purposes of this Act, or of the Act of 1866, may be in writing or print, or partly in writing and partly in print, and if the same require authentication by the Company, the signature thereof by the secretary to the Company shall be a sufficient authentication.

Notice to Company to discontinue supply.

32. A notice to the Company from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing, and be left at the principal office for the time being of the Company.

As to proceedings in bankruptcy on behalf of the Company.

33. In all proceedings against the estate of any bankrupt or under any sequestration, any person appointed for that purpose by the secretary of the Company may represent the Company, and act in their behalf in all respects as if the claim or demand of the Company were the claim or demand of such person and not of the Company.

Gas examiner.

34. In the event of the local authority within the Company's gas limits at any time appointing a permanent gas examiner to test the gas at the testing place, he shall not be an officer or servant of the local authority appointing him other than for the specific purpose of testing gas.

Report of gas examiner.

35. The gas examiner shall, within three days next immediately following that on which the testing of the illuminating power or purity of the gas has been conducted, make and deliver a report in writing of the results of his testing to the local authority or the justices by whom he was appointed, and to the Company.

Security for payment of gas to be given if required.

36. Any person requesting to have a supply of gas from the Company shall, if and when so required in writing by the Company, before he is entitled to have service pipes and a meter provided and fixed, or to have a supply of gas, give to them such security for the payment of the gas to be supplied to him as he and the Company shall agree on, or as in default of agreement is provided for by the Gasworks Clauses Act, 1871.

Company to pay interest on money deposited as security.

37. If any person is required by the Company to give to them security for the payment of gas rates, or 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.

Expenses of Act.

38. All the 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.

A.D. 1875.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

Certain lands with gasworks and buildings thereon, belonging or reputed to belong to the Company, situate in a place called Beaconsthorpe, in the township of Cleethorpes in the parish of Clee, in the county of Lincoln, bounded on the north by an occupation road, on the south by garden land belonging or reputed to belong to John Locking, and on the east by the land described in the second schedule hereto, and on the west by an occupation road.

THE SECOND SCHEDULE.

A piece of land, belonging or reputed to belong to the Company, situate in the township of Cleethorpes, and adjoining the lands described in the first schedule, bounded on the northerly side by an occupation road, on the southerly side by garden ground belonging or reputed to belong to John Rannard, on the easterly side by garden ground belonging or reputed to belong to Amos Appleyard, and on the westerly side by the land and gasworks of the Company.

THE THIRD SCHEDULE.

A piece of land situate in the said township of Cleethorpes, bounded on the northerly side by land adjoining the Cleethorpes branch of the Manchester, Sheffield, and Lincolnshire Railway, on the southerly side by land belonging or reputed to belong to Frederick Tennyson, on the easterly side by an occupation road running between the said piece of land now being described and the existing gasworks of the Company, and on the westerly side by other land belonging or reputed to belong to the said Frederick Tennyson, and containing in the whole one acre or thereabouts.

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