CHAPTER 1.

An Act for authorising the Colchester Gas Company to raise additional capital, for increasing the rates, rents, and charges which the Company are now authorised to take; and for other purposes. [14th June 1875.]

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WHEREAS by "The Colchester Gas Company's Act, 1866," (in this Act called "the Act of 1866,") the Colchester Gaslight and Coke Company were dissolved, and the shareholders therein, with other persons, were re-incorporated by the name of the Colchester Gas Company (in this Act called "the Company"): 29 & 30 Vict. c. lxxxix.

And whereas by the Act of 1866 the capital of the Company was declared to be the aggregate of (*a*) the Company's original capital of twenty thousand pounds, fully paid up, in respect of the capital of the Company thereby dissolved, (*b*) the Company's additional capital of twenty thousand pounds by that Act authorised to be raised, and (*c*) the further capital, if any, consisting of mortgage debt of the Company, from time to time converted into capital, or capital created in lieu of borrowing; and the Company were authorised to raise the additional share capital (*b*) accordingly, and to borrow in respect of their original capital (*a*) five thousand pounds, and in respect of their additional capital (*b*) five thousand pounds:

And whereas the Company have created and issued nearly the whole of their additional capital, and have borrowed the sum of five thousand pounds in respect of their original capital, but have not exercised their powers of borrowing in respect of their additional capital:

And whereas the business of the Company has increased, and is increasing, and it is expedient that they be authorised to raise further moneys for the general purposes of their undertaking:

And whereas by the Act of 1866 it was enacted (section seventy-five) that the charge by the Company for gas supplied by them by meter should not exceed the respective rates following, that is to say, up to and including the twenty-fifth day of March one thousand

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eight hundred and sixty-seven, four shillings and sixpence for one thousand cubic feet, and after that date four shillings and threepence for one thousand cubic feet; and (section seventy-six) that the price of gas charged from time to time by the Company for the supply of the public lamps for lighting the town of Colchester, unless the price should be otherwise agreed upon under special contract in writing, should be one eighth less for every one thousand cubic feet than the lowest price charged from time to time to private consumers; and by section seventy-seven of the same Act the Company were required to repair, light, clean, and extinguish all public lamps to which they supplied gas, and to repair the several service pipes, burners, and stopcocks connected therewith for the sum, unless otherwise agreed, of thirteen shillings a lamp a year:

And whereas in consequence of the great increase of late years in the cost of coal and other materials, and of labour, the charges which the Company are authorised to make as aforesaid are wholly unremunerative, and in their last financial year ending on the thirty-first day of March one thousand eight hundred and seventy-four the Company made no divisible profits, and were consequently unable to declare any dividend:

And whereas under the circumstances above set forth it is just and expedient that the Company be authorised to take such increased charges as by this Act are limited for the supply of gas and other matters aforesaid:

And whereas by section sixty-one of the Act of 1866 the Company are authorised to let meters for hire, but by section sixty-two of the same Act they are prohibited from demanding or taking for the letting of meters rents or sums exceeding for a two-light meter, two shillings a year; for a three-light meter, two shillings and sixpence a year; and for a five-light meter, four shillings a year; but for any other meters the Company are authorised to take such rates as are agreed on:

And whereas the rents or sums so limited for meters of small size do not enable the Company to supply such meters except at a loss, and it is expedient that such limitation be repealed:

And whereas it is expedient that an improved form of burner for testing the lighting power of the Company's gas be substituted for that mentioned in and prescribed by sections seventy and seventy-one of the Act of 1866:

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; (that is to say,)

Short title.

1. This Act may be cited as "The Colchester Gas Company's Act, 1875."

Provisions of certain general Acts incorporated.

2. The provisions of "The Companies Clauses Consolidation Act, 1845," with respect to—

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 borrowing of money by the Company on mortgage or bond;

The conversion of the borrowed money into capital;

The consolidation of the shares into stock;

The making of dividends;

The giving of notices; and

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

and Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital), and Part III. (relating to debenture stock) 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, and "The Gasworks Clauses Act, 1871," shall apply to the existing undertaking of the Company as if the same were hereby authorised.

Interpretation.

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

Power to Company to raise additional capital.

4. The Company may from time to time raise (in addition to their present capital) any further sums not exceeding in the whole ten thousand pounds, by the creation and issue of new ordinary or preference shares or stock in their capital, or at the option of the

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Company by any of those modes, but no such share shall be of less amount than twenty pounds.

Shares not to issue until one fifth part paid up.

5. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share 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 three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Shares to be offered by public auction.

7. Notwithstanding anything in this Act contained, the Company shall, when any shares or stock created after the passing 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 not at a premium, offer the same for sale by public auction within the borough of Colchester 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 the reserved price put upon such shares or stock shall not be less than the nominal amount thereof.

Sale by auction to be advertised, and premiums on such sales not to be entitled to dividend.

8. The intention to sell any shares or stock by auction shall be duly advertised by placard for at least fourteen days previous to the day of sale and twice during the same period in a newspaper usually circulating in the county of Essex, and any sum of money which shall arise from any such sales by way of premium after deducting therefrom the expenses of and incident to such sale shall not be considered as profits of the Company, but shall be expended in paying the expenses of this Act, or 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.

Shares not sold by auction to be offered to existing shareholders.

9. When any of such ordinary shares or ordinary stock have been offered for sale by auction and not sold, the same shall be offered to the holders of the ordinary shares or ordinary stock of the Company at par in manner provided by "The Companies Clauses Act, 1863."

Receipts in case of persons not sui juris.

10. If any money is 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.

Limit of dividends on new capital.

11. The Company shall not in any year pay 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 on ordinary shares or stock, or six pounds in respect of any hundred pounds actually paid on preference shares or stock.

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

12. 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 of each class.

As to conversion of borrowed money into capital.

13. The Company shall not have power to raise the money authorised by this Act to be borrowed on mortgage, or the money authorised by the Act of 1866 to be borrowed on mortgage, in respect of their additional capital by that Act authorised, or any part thereof respectively, 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 under the provisions of the Act of 1866 in respect of such additional capital as aforesaid, 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.

Power to borrow on mortgage.

14. The Company may from time to time, in addition to the sums authorised by the existing Act to be borrowed, borrow on mortgage in respect of the additional capital by this Act authorised to be raised by shares or stock any sums not exceeding in the whole two thousand five hundred pounds, but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company 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 shares for the whole of such capital have been issued and accepted, and that one half of such capital 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 additional capital by this Act authorised 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 bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators,

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successors, or assigns, and also, if any portion of the additional capital is raised by shares, 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 proof aforesaid has been given, which shall be sufficient evidence thereof.

Existing mortgages to have priority.

15. All mortgages and bonds granted by the Company in pursuance of the Act of 1866, and subsisting at the time of the passing of this Act, shall during the continuance thereof have priority over all mortgages granted in pursuance of this Act.

Repealing section 34 of Act of 1866.

16. Section thirty-four (for the appointment of a receiver) of the Act of 1866 is hereby repealed, but without prejudice to any appointment heretofore made or any proceedings now pending.

For 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. 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 two thousand pounds in the whole.

Interest on mortgages and debenture stock to rank equally.

18. Notwithstanding anything in Part III. of "The Companies Clauses Act, 1863," contained, the interest of all debenture stock at any time to be created and issued by the Company shall rank pari passu with the interest of all mortgages to be 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 and debenture stock over other debts, &c.

19. 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 by the Company after the passing 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 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," or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company by any person in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest or dividends on the mortgages, bonds, and debenture

stock, nor shall anything herein-before 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 moneys.

20. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied only for the purposes of this Act and of the Act of 1866, and the Company may apply for the purposes of this Act any moneys raised or to be raised under the Act of 1866, and which they do not require for the purposes of that Act.

Repealing sections 75 and 76 of Act of 1866.

21. Section seventy-five (price of gas) and section seventy-six (price of gas for public lamps) of the Act of 1866 are hereby repealed.

Price of gas.

22. Subject and without prejudice to any contracts or agreements subsisting at the passing of this Act between the Company and any consumers, the Company may demand and take for gas supplied by them by meter after the passing of this Act any rate or sum not exceeding five shillings for one thousand cubic feet.

Price of gas for public lamps.

23. Subject and without prejudice to any contract subsisting at the passing of this Act between the Company and the lighting authority, the charge for gas supplied from time to time by the Company after the passing of this Act to or for the public lamps, for lighting the town of Colchester (unless the price be otherwise agreed upon under special contract in writing), shall be the lowest price charged from time to time to any private consumer, but the supply to the ordnance and barrack departments shall not be deemed private consumption.

Amending section 77 of Act of 1866.

24. From and after the passing of this Act, section seventy-seven (company to repair, light, clean, and extinguish public lamps) of the Act of 1866 shall be read and have effect as if the words "fifteen shillings" had been inserted therein instead of the words "thirteen shillings."

Repealing restriction in section 62 of Act of 1866 as to rents for certain meters.

25. From and after the passing of this Act, so much of section sixty-two of the Act of 1866 as restricts the Company from demanding and taking rates exceeding those in that behalf specified in that section for the letting of two-light meters, three-light meters, and five-light meters is hereby repealed, and it shall be lawful for the Company to demand and take for the letting of any such meter such rates as may be agreed between the Company and the person or persons hiring the meter.

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Repealing sections 70 and 71 of Act of 1866 as from a certain day.

26. From and after the thirty-first day of December next after the passing of this Act, sections seventy (lighting power and quality of gas) and seventy-one (apparatus for testing lighting power and purity of gas) are by this Act repealed.

Lighting power and quality of gas after that day.

27. From and after the said thirty-first day of December next, all gas supplied by the Company shall be tested by Sugg's No. 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 rises above the top of the glass, a six-inch by two-inch chimney shall be used; and such gas shall produce a light equal in intensity to the light produced by fourteen uncased sperm candles of six to the pound, each burning one hundred and twenty grains an hour, and shall be so far free from sulphuretted hydrogen as not to discolour moistened test paper imbued with acetate or carbonate of lead when exposed for one minute to a current of gas issuing under a pressure of five tenths of an inch of water.

Apparatus for testing lighting power and purity of gas.

28. The Company shall provide in some part of their works where they make gas, so placed as to afford a test for all the gas supplied thence by the Company, a proper and sufficient testing meter, furnished with a Sugg's No. 1 London argand burner, with a chimney and other apparatus proper and sufficient for testing the lighting power and purity of the gas.

Sections 72, 73, and 74 of Act of 1866 to continue to have effect.

29. From and after the said thirty-first day of December next, the provisions of sections seventy-two, seventy-three, and seventy-four of the Act of 1866 shall continue to have effect and shall apply as if those sections had been re-enacted in this Act.

Pressure of gas.

30. All gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance from midnight to sunset a column of water not less than five tenths of an inch in height, and to balance from sunset to midnight a column of water not less than nine 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; provided that on each occasion of such testing not less than two hours notice in

writing shall be given to the Company of the time and place at which such testing shall be conducted. A.D. 1875.

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

31. 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.

Prohibiting works except on lands in schedule.

32. The Company shall not manufacture gas or convert or manufacture any residual products except upon the lands described in the schedule to this Act.

Expenses of Act.

33. 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.

SCHEDULE referred to in the foregoing Act.

Lands occupied in whole or in part by the gasworks of the Company, situate at the Hythe, in the parish of Saint Leonard, in the borough of Colchester, and bounded northwardly in part by garden ground belonging to the Horseshoes publichouse, the property of Messieurs Cobbold and Company, in the occupation of the Widow Brown, and in other part by meadow or pasture ground, late of William Warwick Hawkins, but now belonging or reputed to belong to Mrs. Jane Harriet Hawkins, and in the occupation of John Lindsay Browne, southwardly by a footpath leading from the Hythe Quay to Springhead Meadow (part of the glebe of the parish of Saint Leonard), in the occupation of Thomas Moy, eastwardly in part by the Queen's highway, adjoining the Hythe Quay, in other part by a coal yard and sheds belonging or reputed to belong to the representatives of Stephen Brown deceased, and now in the occupation of Thomas Moy, and in other part by a yard of John Sluck Barnes, in the occupation of the Colchester Coal Company, and westwardly in part by garden ground of and occupied by Thomas Page, and in other part by meadow ground (part of the glebe of the parish of Saint Leonard) in the occupation of Thomas Moy.

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