CHAPTER xcii.

An Act to authorise the Town Commissioners of Dundalk to apply their funds and to raise further funds for the purchase of the works and undertaking of the Dundalk Gas Company; and for other purposes. A.D. 1887.

[5th July 1887.]

WHEREAS under the provisions of the Towns Improvement (Ireland) Act, 1854, Town Commissioners (in this Act called "the Commissioners") have been elected, and are acting for the town of Dundalk, in the county of Louth, and by that Act powers were conferred upon them for paving, lighting, draining, cleansing and supplying with water the town of Dundalk, and under the provisions of the Public Health (Ireland) Act, 1878, the Commissioners are the urban sanitary authority for the town of Dundalk: 17 & 18 Vict. c. 103 (Public). 41 & 42 Vict. c. 52 (Public).

And whereas by the Dundalk Gas Company's Act, 1887, the Commissioners are authorised to purchase the works and undertaking of the Dundalk Gas Company, and it is expedient that the Commissioners be authorised and empowered to apply their funds, and to raise and apply further funds for the purposes of such purchase:

And whereas the Commissioners, at a meeting held on the twenty-seventh day of July one thousand eight hundred and eighty-six, after special notice setting forth the nature of the proposed application to Parliament, by resolution agreed to such application, and such resolution was confirmed at a subsequent meeting held on the twenty-sixth day of August one thousand eight hundred and eighty-six, notice of which subsequent meeting, together with the proceedings at the former meeting, was duly advertised in each of the weeks intervening between the two meetings in the "Dundalk Herald," "Dundalk Democrat," and "Dundalk Examiner," being newspapers circulating in the town of Dundalk, and special notice in writing of the subsequent meeting was given to each of the Commissioners:

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And whereas after the holding of such subsequent meeting and before any steps were taken by the Commissioners for carrying such resolution into effect, the said resolution, together with the proceedings at the former meeting and at the subsequent meeting were duly advertised for four successive weeks in the newspapers aforesaid and public notice thereof was also given by means of placards posted in public places within the town of Dundalk, reference being made in all such advertisements and notices to the fact that the plans or particulars of the works or matter to which the resolution related might be seen gratuitously by the ratepayers at the Town Hall, Dundalk:

And whereas no remonstrance against carrying into effect such resolution or any part thereof signed by ratepayers was presented to the Commissioners:

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 Dundalk Commissioners Gas Act, 1887.

Incorporation of Acts.

2. The following Acts, so far as applicable for the purposes of and not varied by or inconsistent with this Act, are incorporated with and form part of this Act (that is to say):—The provisions of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the Commissioners (except sections 84 and 85), and as soon as the undertaking of the Company shall have been acquired by the Commissioners, the Gasworks Clauses Act, 1847 (except the provisions thereof with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit), and the Gasworks Clauses Act, 1871 (except sections 7 and 8), shall apply to the undertaking in the hands of the Commissioners.

Interpretation of terms in general Acts.

3. In construing for the purposes of this Act the Acts mentioned in the last preceding enactment, the expressions "the promoters," "the promoters of the undertaking," and other like expressions, shall mean the Commissioners, and the expression "the special Act" shall mean this Act.

Interpretation.

4. In this Act the several words and expressions to which meanings are assigned by the Acts incorporated herewith have the

same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Commissioners" means the Town Commissioners of the town of Dundalk; the expression "the Company" means the Dundalk Gas Company; the expression "the general assessment rate" means the rate or rates which the Commissioners are authorised to levy under the provisions of the Towns Improvement (Ireland) Act, 1854, the Public Health (Ireland) Act, 1878, and the Town of Dundalk Provisional Order, 1878; the expression "the Local Government Board" means the Local Government Board for Ireland; the word "person" includes a corporation; the expression "the date of transfer" means the date when the works and undertaking of the Company shall have been transferred to the Commissioners.

Commencement of Act.

5. Notwithstanding anything herein contained, this Act (except the provisions thereof as to the payment of the costs of this Act, and the borrowing of money for that purpose) shall not commence or have effect until the Commissioners have given notice to the Company of their desire to purchase the works and undertaking of the Company, and the price, terms and conditions of the transfer have been agreed upon or determined by arbitration in accordance with the provisions of the Dundalk Gas Company's Act, 1887.

Act to be executed by Commissioners.

6. This Act shall be executed by the Commissioners, as and being the urban sanitary authority for the town of Dundalk, in the county of Louth, with the powers and indemnities and according to the provisions of the Public Health (Ireland) Act, 1878, and that Act shall, in relation to the Commissioners and the several objects and purposes of this Act, be read and construed as if the purposes of this Act and of the Dundalk Gas Company's Act, 1887, as far as the same relates to the Commissioners, were sanitary purposes within the meaning of the Public Health (Ireland) Act, 1878, and as if the purchase of the undertaking of the Company were the execution of works by the Commissioners within the meaning of that Act, and as if the provisions of this Act were provisions of that Act, except so far as any of the provisions of that Act are expressly varied or otherwise provided for by this Act.

Power to borrow.

7. (1.) The Commissioners may from time to time, in addition to any moneys they are now authorised to borrow, borrow at interest such sums of money as shall be necessary for the purchase by the Commissioners of the works and undertaking of the Company, including all costs, charges and expenses payable by the Commissioners in respect of and incidental to the transfer thereof and the costs of this Act, and in order to secure the money so borrowed,

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they may mortgage the revenue of their gas undertaking and their general assessment rate.

(2.) Money borrowed under this Act shall be applied, first, in payment of the costs of this Act, and, secondly, for the purchase of the works and undertaking of the Company, and the costs, charges and expenses incidental thereto.

(3.) Money borrowed under this Act shall be applied only to the purposes for which it is borrowed, being in every case purposes to which capital is properly applicable.

Sinking fund.

(4.) The money borrowed under this Act shall be repaid within fifty years from the borrowing of the same, either by equal annual instalments or by equal annual contributions to a sinking fund appropriated for that purpose, and with the accumulations thereof (if any) from time to time applied for that purpose: Provided that it shall not be obligatory upon the Commissioners to pay off any money or make any appropriations for a sinking fund before the expiration of five years from the time when the money was borrowed.

Reborrowing.

(5.) If, having borrowed any money under the provisions of this Act, the Commissioners pay off the same, or any part thereof, otherwise than by instalments, or by means of a sinking fund, they may reborrow the same, and so from time to time: Provided that all money so reborrowed shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such reborrowing has been made.

(6.) The powers of borrowing money conferred by this Act shall not be restricted by any of the regulations contained in the Public Health (Ireland) Act, 1878, and in calculating the sum that the Commissioners may borrow under the Public Health (Ireland) Act, 1878, any sums they may borrow under this Act shall not be reckoned.

Power to borrow on cash credit.

8. The Commissioners, in the exercise of their borrowing powers under this Act, may, from time to time, take from any bank or banking company credit on a cash account to be opened or kept by such banking company, according to the usage of bankers in Ireland in the name of the Commissioners, or of an officer to be appointed by them, to the extent of the sum that they are by this Act authorised to borrow, or any part thereof, and may make and grant mortgages as aforesaid as security for the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon.

Power to issue debenture stock

9. The Commissioners, if they think fit, may borrow the moneys which they are by this Act authorised to borrow on mortgage, by means of a loan or loans to be raised by the issue of debenture

stock, or partly by mortgage, and partly by debenture stock, on the security of the revenue of their gas undertaking and the general assessment rate: Provided always that the total amount so borrowed, whether by mortgage or debenture stock, shall not exceed twenty thousand pounds.

As to debenture stock.

10. The Commissioners may create and issue debenture stock under and in accordance with the following provisions (that is to say):—

(1.) The debenture stock shall bear a fixed rate of interest, after a rate not exceeding five pounds per centum per annum, payable half-yearly, and may be created and issued at such times, in such amounts, at such price and subject to such conditions as the Commissioners think fit, and shall be redeemable at par at such time and on such conditions as the Commissioners declare on the first creation thereof;

(2.) The interest on the debenture stock shall be a first charge on the net revenue of the Commissioners' gas undertaking and shall also be a charge on the general assessment rate next after all charges subsisting thereon at the time of the creation and issue of such debenture stock;

(3.) The Commissioners shall, from and after the first issue of debenture stock under the powers of this Act, keep a book to be called "the Register of Debenture Stockholders," and in such book shall be fairly and distinctly entered, from time to time, the names and addresses of the holders of debenture stock, together with the amount of debenture stock to which such holders shall respectively be entitled, and the surnames or corporate names of such holders shall be placed in alphabetical order, and every holder, and if such holder be a corporation, the clerk or agent of such corporation may, at all convenient times, peruse such book gratis, and may require a copy thereof, or of any part thereof, and for each such copy the Commissioners may demand such sum, as they may from time to time appoint, not exceeding sixpence for every hundred words so required to be copied;

(4.) The receipt in writing of the corporations and persons in the said register, their successors, executors, administrators or assigns, shall be a sufficient and effectual discharge to the Commissioners for any moneys due to such corporations or persons as and when they shall respectively become payable, and if any debenture stockholder be by reason of infancy or lunacy unable to give an effectual receipt, the receipt in writing of the guardian or committee of his estate shall be

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in like manner a sufficient and effectual discharge to the Commissioners;

(5.) The certificate of any debenture stock may be in the form in the first schedule to this Act annexed, or to the like effect, and shall be admitted in all courts as primâ facie evidence of the title of the holder thereof to the debenture stock therein specified;

(6.) If the certificate of any debenture stock be worn out or damaged, then on its being produced to the Commissioners they may order it to be cancelled, and thereupon they shall issue a similar certificate to the person who was then entitled to the certificate so worn out or damaged, or if any such certificate be lost or destroyed, then on proof thereof to the satisfaction of the Commissioners they shall issue a similar certificate to the person then entitled to the certificate so lost or destroyed, and in either case a due entry of the substituted certificate shall be made by the Commissioners in the register of debenture stock, and for every such substituted certificate the Commissioners may demand a sum of two shillings and sixpence;

(7.) Debenture stock shall be personal estate;

(8.) The interest of the debenture stock shall rank next to the interest payable on the mortgages of the Commissioners legally granted before the creation of such debenture stock, but the holders of the debenture stock shall not, as among themselves, be entitled to any preference or priority.

Transfer of debenture stock.

11. With respect to the transfer of debenture stock, the following provisions shall have effect (that is to say):—

(1.) Debenture stock may be transferred in any amount, and every such transfer shall be by deed duly stamped in which the consideration shall be truly stated, and such deed may be according to the form in the second schedule to this Act annexed, or to the like effect, and shall not contain any recital, trust, power or proviso whatsoever;

(2.) The Commissioners shall keep a book, to be called "the Register of Transfers of Debenture Stock," and every such deed of transfer, when duly executed, shall be delivered to and kept by the Commissioners, and they shall enter a memorial of every such deed of transfer in such book and shall endorse such entry on the deed of transfer (such endorsement to be signed by the town clerk), and shall, on demand, deliver a new certificate to the transferee, and for every such entry of a deed of transfer with such endorsement, and with or without such certificate,

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the Commissioners may demand any sum not exceeding two shillings and sixpence, and on the request of any transferee an endorsement shall be made on the certificate of the debenture stock so transferred instead of a new certificate being granted, and such endorsement, being signed by the town clerk, shall be considered in every respect the same as a new certificate, and until such deed of transfer shall be so delivered to the Commissioners the Commissioners shall not be affected thereby, nor shall the transferee be entitled to receive any part of the interest on the debenture stock transferred;

(3.) The Commissioners may close the register of transfers for any period not exceeding fourteen days before each half-yearly day for the payment of interest, and any transfer made during the time the register is closed, shall, as between the Commissioners and the transferee, but not otherwise, be deemed made after that time;

(4.) If any debenture stock become transmitted in consequence of the death or bankruptcy of any holder thereof, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall (if required by the Commissioners), be authenticated by a declaration in writing as by this Act provided, and until such transmission be so authenticated, any person claiming by virtue thereof, shall not be entitled to receive any interest on any part of the debenture stock transmitted;

(5.) Every such declaration shall state the manner in which and the party to whom the debenture stock is transmitted, and shall be made and signed by some credible person before a justice, or before a commissioner to administer oaths in the High Court of Justice in Ireland, and such declaration shall be left with the Commissioners, and thereupon they shall enter the name of the person entitled to such transmission in the register of transfers, and for every such entry the Commissioners may demand the sum of two shillings and sixpence;

(6.) If the transmission be by virtue of any testamentary instrument, or by intestacy, the probate of the will or the letters of administration, or an official extract therefrom, shall, with the declaration, be produced to the Commissioners, who shall, upon such production, in either of these cases make an entry of the declaration in the register of transfers, and for every such entry the Commissioners may demand the sum of two shillings and sixpence.

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The Commissioners not to be bound to regard trusts.

12. The Commissioners shall not be bound to see to the execution of any trusts, whether express, or implied, or constructive, to which any debenture stock may be subject, and the receipt of the party in whose name such debenture stock stands in the said register, shall, from time to time, be a sufficient discharge to the Commissioners for any money payable in respect of such debenture stock, notwithstanding any trusts to which such debenture stock may then be subject, and whether or not the Commissioners have had notice of such trusts, and the Commissioners shall not be bound to see to the application of the money paid upon such receipt.

Interest on debenture stock to be recovered by action.

13. If the interest of any debenture stock or any part thereof, being payable, be not paid upon demand thereof in writing made to the Commissioners by the holder thereof, such holder may sue for and recover the same with full costs of suit in any court of competent jurisdiction.

Application of sinking fund.

14. The Commissioners may, from time to time, apply the whole or any part of the sinking fund in or towards the discharge of the principal moneys for the discharge of which such fund shall have been established: Provided that they pay in each year into the sinking fund, and accumulate until the whole of the principal moneys in respect of which it shall have been accumulated shall have been discharged, a sum equivalent to the interest of the principal moneys so paid off or discharged: Provided also, that whenever and so long as the yearly income arising from any sinking fund shall be equal to the annual interest of the principal moneys then outstanding and to be paid off by means of such fund, the Commissioners may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may, during such periods, discontinue the payment to such sinking fund of the yearly sums by this Act required to be so paid thereto.

Sinking fund how to be invested.

15. All sums paid into any sinking fund created by the Commissioners under the powers of this Act shall be, as soon as may be, invested in any manner in which trustees are by law, for the time being, authorised to invest trust moneys.

Appointment of receiver.

16. If at the expiration of six months from the time when any principal money or interest has become due to any mortgagee or debenture stockholder, and after demand in writing, the same is not paid, the mortgagee or debenture stockholder entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to the High Court of Justice in

Ireland, and the court may appoint some person to collect and receive the whole or a competent part of the revenue and rates, liable to the payment of principal or interest in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and collection are fully paid. On such appointment being made all such revenue or rates or such competent part thereof as aforesaid shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees or debenture stockholder or stockholders having a charge on such revenue or rates, and shall be rateably apportioned between them.

Annual return to be made to Local Government Board with respect to sinking fund.

17. The town clerk to the Commissioners shall, within thirty-one days after the expiration of each year during which any sum is required to be paid as an instalment, or to be set apart for a sinking fund under this Act, transmit to the Local Government Board a return in the form prescribed by that Board, and verified by statutory declaration, if so required by them, showing the amount that has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and also showing the purposes to which any portion of the moneys invested for the sinking fund, and the interest thereof, have been applied during the same period, and the total amount remaining invested at the end of the year, and in the event of any wilful default in making such return the town clerk shall be liable to a penalty not exceeding twenty pounds, which shall be paid to the Local Government Board, and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health (Ireland) Act, 1878, in a summary manner may be recovered by the parties aggrieved within the meaning of that Act. If it appear to the Local Government Board by such return or otherwise that the Commissioners have failed to pay any instalment, or to set apart the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund, or any interest thereof, to any purposes other than those authorised by this Act, the Local Government Board may, if they think fit, and after hearing the Commissioners, if desiring to be heard, by order direct that a sum not exceeding double the amount in respect of which such default shall have been made, shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of mandamus, to be obtained by the Local Government Board out of the Queen's Bench Division of the High Court of Justice in Ireland.

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Protection for lenders from inquiry.

18. A lender of money to the Commissioners under this Act shall not be bound to inquire respecting the observance by them of any of the provisions of this Act, or bound to see to the application or be answerable for any loss, non-application or misapplication of the money lent, or any part thereof.

Saving for existing charges.

19. Nothing in this Act shall prejudicially affect any charge on the revenues, or rates, or property of the Commissioners subsisting at the passing of this Act, and every mortgagee or other person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of any revenue or property subject to his charge as if this Act had not been passed, and all charges created before the passing of this Act shall, during the subsistence thereof, have priority over any mortgage or charge granted under this Act on the same revenue rate or property.

Application of revenue.

20. The Commissioners shall keep accounts in respect of their gas undertaking separate from all their other accounts, and shall apply all money from time to time received by them in respect of the gas undertaking except borrowed money as follows (that is to say):—

(1.) In payment of their costs, charges and expenses of and incidental to the collecting and recovering of gas rates and rents and of the borrowing of money under this Act, and in payment of the working and establishment expenses and cost of maintenance of their gas undertaking;

(2.) In providing the moneys required to pay the interest on moneys borrowed by them or raised by the issue of debenture stock under this Act;

(3.) In providing the requisite instalments or sinking fund under this Act, or otherwise making provision for the repayment of moneys borrowed under this Act;

(4.) In providing a reserve fund, if they think fit; by setting aside such money as they from time to time think reasonable, and investing the same and the resulting income thereof in Government securities, or any securities in which trustees are or may be authorised to invest trust moneys, and accumulating the same at compound interest, until the fund so formed amounts to two thousand pounds, which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Commissioners from the gas undertaking, or to meeting any extraordinary claim or demand at any time arising against the Commissioners in respect of that under-

taking, or to the improving and extending their gas undertaking, and so that if that fund is at any time reduced it may thereafter be again restored to the sum of two thousand pounds, and so from time to time, as often as such reduction happens:

And the Commissioners shall carry to the credit of the general assessment rate so much of any balance remaining in any year as may in the opinion of the Commissioners not be required for carrying on their gas undertaking and paying the current expenses connected therewith, and the annual proceeds of the reserve fund when amounting to two thousand pounds.

Audit of accounts.

21. The provisions of the Public Health (Ireland) Act, 1878, relating to the audit of accounts, shall apply and be observed with respect to the accounts kept under the provisions of this Act.

Gas rents may be collected with general assessment rate.

22. The Commissioners may collect the gas rents with the general assessment rate, and may apportion the cost of the collection between the gas rents and the general assessment rate as they think fit.

As to deficiency in receipts.

23. Any deficiency in the revenues and receipts of the Commissioners on account of the gas undertaking, shall be from time to time made good out of the general assessment rate in such manner as the Commissioners may from time to time determine.

Contracts for gas not to disqualify.

24. No person entering into any contract with the Commissioners for the supply of gas to him, or for any meter or apparatus to be furnished to him, or for any work to be done for him for the purposes of such supply, shall thereby be disabled from being a Commissioner, or incur any penalty by reason of such contract, but any Commissioner concerned directly or indirectly by himself or any partner in any such contract, shall not take part in any vote or proceeding relative thereto, at any meeting of the Commissioners.

Commissioners subject to provisions of general Acts.

25. Nothing in this Act shall exempt the Commissioners from the provisions of any general Act passed, or to be passed, for the improvement of the sanitary condition of towns or the abatement of nuisances.

Costs of Act.

26. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act (in this Act referred to as "the costs of this Act") shall be paid by the Commissioners out of any of their funds, but shall be recouped by and charged to the moneys to be borrowed by the Commissioners under the powers of this Act.

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FIRST SCHEDULE.

FORM OF CERTIFICATE OF DEBENTURE STOCK.

DUNDALK COMMISSIONERS' REDEEMABLE DEBENTURE STOCK.

Certificate No. Amount £
Register No.

This is to certify that of is registered in the books of the Town Commissioners of Dundalk, as the proprietor of pounds sterling Dundalk Commissioners' Redeemable Debenture Stock, created by virtue of the Dundalk Commissioners Gas Act, 1887, bearing interest at the rate of £ per centum per annum, payable half-yearly on the first day of January and first day of July in every year, the first payment to be made on the first day of next.

Given under the common seal of the Dundalk Town Commissioners, the day of .

Entered the day of .

L.S.

Town Clerk.

NOTE.—This debenture stock certificate must be deposited with the deed of transfer, whether for the whole or any portion thereof, before a new certificate can be issued in exchange. All certificates will bear the common seal of the Commissioners.

SECOND SCHEDULE.

FORM OF TRANSFER OF DEBENTURE STOCK.

I of in consideration of pounds paid to me by of do hereby transfer to (hereinafter called the transferee) the sum of pounds, Dundalk Commissioners' Redeemable

Debenture Stock, with all interest due thereon, to hold unto the transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof, and I, the transferee, do hereby agree to take the same debenture stock subject to the same conditions.

As witness our hands and seals this day of

L.S.

L.S.

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