CHAPTER xvii.

An Act for making additional provision for the supply of Gas to the Burgh of Dundee and suburbs, and places adjacent; for amending and extending the Act relating to such supply; for extending the limits of supply; and for other purposes. [13th May 1872.]

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WHEREAS in the session of Parliament held in the eleventh year of His late Majesty King George the Fourth, an Act was passed, intituled "An Act for incorporating the Dundee Gas-light Company, and for the better lighting the town of Dundee by Gas," under which "The Dundee Gaslight Company" was incorporated with power to raise money and construct works and supply gas; and by "The Dundee Gaslight Company's Amendment Act, 1867," the said Company was authorised to raise a further sum of money: And whereas in the session of Parliament held in the ninth year of Her present Majesty Queen Victoria an Act was passed, intituled "An Act for the better supplying with Gas the Royal Burgh of Dundee, suburbs thereof, and places adjacent, in the county of Forfar," whereby another Company was incorporated by the name of "The Dundee New Gaslight Company," with power to raise money and construct works, and supply gas; and by "The Dundee New Gaslight Company (Additional Capital) Act, 1867," the said Company was authorised to raise a further sum of money:

11 G. 4. c. xxxvi.

30 & 31 Vict. c. cvii.

9 & 10 Vict. c. l.

And whereas the said Companies, under their respective Acts, established works for the manufacture of gas, and supplied gas therefrom to the burgh of Dundee and suburbs, and places adjacent, and to the inhabitants thereof:

And whereas the undertakings and rights and privileges of the said Companies, and the power of making and supplying gas to Dundee and suburbs, and places adjacent, were vested in and undertaken by the Dundee Gas Commissioners (herein-after called the

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Commissioners), incorporated by and acting under "The Dundee Gas Act, 1868," herein-after called the special Act:

And whereas portions of the works and apparatus of the Commissioners are defective and insufficient, and it is expedient that the Commissioners should discontinue and demolish parts of the same, and provide and erect additional apparatus and works, and increase the power and capacity of their works and apparatus:

And whereas the powers of borrowing on mortgage given by the said special Act have proved to be inadequate for the purposes thereof, and it is expedient that the Commissioners should be empowered to raise further money for the purposes of the said special Act and this Act, and of their undertaking; and it is also expedient that the limits of the said special Act should be extended, and that the said Act should be amended, enlarged, and altered, and that further and other powers should be conferred on the Commissioners:

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

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

Short title.

1. This Act may be cited for all purposes as "The Dundee Gas Amendment Act, 1872," and it shall be read and construed as an amendment of "The Dundee Gas Act, 1868."

10 & 11 Vict. c. 15. incorporated.

2. "The Gasworks Clauses Act, 1847," with the exception of the clauses with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, shall (except where expressly varied by this Act) be incorporated with and form part of this Act.

Interpretation of terms.

3. The several words and expressions to which by the special Act, or the Act partially incorporated herewith, meanings are assigned, shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction.

Annual meetings of Commissioners altered.

4. All annual general meetings of the Commissioners shall, from and after the passing of this Act, be held in Dundee on the third Wednesday of June in every year, instead of on the second Tuesday of June in every year, as provided by section thirteen of the special Act.

Time for appointing

5. The auditor to be appointed by the sheriff in terms of section nineteen of the special Act shall, for the year current at the passing

of this Act, be appointed within two months after the passing of this Act, and shall thereafter be appointed in the month of June in every year, instead of in the month of January, as provided by said section nineteen. A.D. 1872. auditor altered.

6. In the elections of Commissioners to be from time to time made by the Guildry Incorporation, Nine Incorporated Trades, Three United Trades and Chamber of Commerce respectively, as provided for in the special Act, such elections respectively shall only be by ballot in the event of more than the number of Commissioners to be elected by said bodies respectively being duly proposed for election at the meetings respectively convened for the purpose of such elections; and in the event of no more than such number being proposed at such meetings respectively, the chairman of such meetings respectively shall declare the persons so proposed to be elected Commissioners, and such persons shall be held to be duly elected accordingly. Elections of elective Commissioners need not be by ballot in certain cases.

7. The Commissioners may from time to time make and store gas on the lands described in the schedule to this Act, on which the gasworks of the Commissioners now stand, and on those lands only, and erect new gas-holders, purifying apparatus, buildings, and other gasworks, and maintain, restore, improve, enlarge, or alter the same, as well as the existing gasworks and apparatus, and discontinue and abolish such parts of the existing and new gasworks and apparatus as they may from time to time find can no longer be beneficially used, and may purchase and procure all such material, and do all such acts, as they may consider necessary for the said purposes, or for the manufacture, sale, and disposal of gas, or of coke or other substances, products, and refuse or residuum arising or to be obtained from the materials used in making gas: Provided that nothing in this Act shall prevent the Commissioners from being liable to any legal proceedings for nuisance to which they may be liable in consequence of the exercise by them of the powers of this Act. Power to erect gas-holders, &c. and to enlarge, alter, and discontinue the same and existing works.

8. Subject to the provisions of this Act, the limits of the special Act for the supply of gas by the Commissioners are hereby extended so as to comprise and include such portions of the following parishes, viz., the parish of Dundee, the united parishes of Liff, Logie, Benvie, and Invergowrie, and the united parishes of Mains and Strathmartine, all in the county of Forfar, as are not included within the present limits of supply: Provided always, that nothing herein contained shall authorise the Commissioners to supply gas within the limits of "The Broughty Ferry Commissioners Gas Act, 1870," without the consent of the commissioners of police acting Extension of limits of supply.

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in and for the burgh of Broughty Ferry for the time being first had and obtained; and reserving also to the said commissioners of police the permissive powers to sell and supply gas by special agreement conferred upon them by section twenty-five of the said last-mentioned Act.

Power to Commissioners and local boards to agree as to supply of gas.

9. The Commissioners may supply gas in bulk to any owners and occupiers of lands and heritages, and to any local board of health, police commissioners, parochial board, or other public authority beyond their limits of supply, from any of the main pipes or gas-holders of the Commissioners at or within such limits, and the Commissioners and all or any such persons and bodies are hereby empowered to contract with each other for such supply upon such terms and conditions and for such period or periods of time as they may mutually agree upon: Provided always, that such supply shall not prejudicially affect or restrict the supply from time to time required within the limits of the special Act and this Act.

Price of gas within extended limits, and when sold in bulk.

10. The rates at which gas shall be supplied to the area within the extended limits of this Act, or under the immediately preceding section of this Act, shall in all cases exceed by one shilling per one thousand cubic feet at least the rates charged within the limits of the special Act.

Security for payment of rate.

11. Subject to the provisions of this Act, any person having at present a supply of gas and any person requesting to have a supply of gas from the Commissioners shall, if and when required in writing by them, give to them security for the payment of the rates or charges for the gas to be supplied to such person, and the Commissioners shall be liable to a penalty not exceeding five pounds if they shall discontinue the supply of gas to any person then having a supply, unless such person shall have failed to give them such security within seven days after the same shall have been demanded by the Commissioners, and to a like penalty of five pounds if they shall fail to give such supply to any person requesting to have a supply within seven days after security as aforesaid has been given, and any dispute as to any matter arising under the present section shall be settled, upon the application of either party, by the sheriff, whose decision thereof shall be final, and not subject to review in any court or by any process whatever.

Power to supply gas fittings, &c.

12. The Commissioners may manufacture, purchase, supply, hire, sell, let, lay down, place, and maintain gas fittings, meters, pipes, pillars, lamp posts, lamps, burners, and other articles and things connected with gasworks, or with the supply of gas for public or private consumption, in such manner as the Commissioners think

proper, and generally may carry on such operations and business as are for the time being usually carried on by gas companies.

As to laying pipes.

13. Where the dwelling-house or other premises of any owner or occupier desiring to be supplied with gas by the Commissioners within the limits of the special Act are more than thirty feet distant from the nearest side of the street nearest to such dwelling-house or other premises, such owner or occupier shall be at the expense of the pipe beyond such thirty feet; and as regards the portions of the parishes mentioned in section eight of this Act, not included within the limits of the special Act, any pipes or apparatus required to be laid for supplying gas to any houses or premises at a greater distance than thirty feet from any main pipe of the Commissioners, and all pipes and apparatus required to be laid on any private property, shall only be laid at the expense of the person requiring the gas to be supplied or the pipes and apparatus to be laid, and upon his giving security for payment of such expense.

Penalty for making fraudulent pipe connexions.

14. Every person who, without the consent of the Commissioners, shall lay any pipe or cause or procure any pipe to be laid to communicate with any pipe or meter through which any gas of the Commissioners runs or is supplied, for the purpose of drawing off or procuring any such gas, or who shall fraudulently abstract, consume, or use any gas of the Commissioners, shall (without prejudice to any other right or remedy for the protection of the Commissioners or the punishment of the offender) forfeit to the Commissioners the sum of five pounds for every such offence, and also the sum of two pounds for every day any such pipe or connexion may continue or remain, and the Commissioners may, in addition thereto, recover from such person the amount of any loss or damage by them sustained.

Discount on rates and charges.

15. The Commissioners may from time to time, if they think fit, make an allowance by way of discount, not exceeding the rate of five per centum on the amount due in respect of any rates or charges, or of any assessments or rates, from every person who pays the same within such time after demand thereof as the Commissioners think fit to prescribe in that behalf.

Contingent fund.

16. It shall be lawful for the Commissioners to set apart annually a sum not more than two and a half per centum of the gross annual revenue received by them, to be applied in their discretion as a contingent fund against risks and losses by fire, explosions, and destruction of works other than by ordinary tear and wear, and for permanent additions and improvements, and to invest the moneys so set apart, when the same are not required, in such way and manner as they may deem expedient.

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Power to borrow on mortgage.

17. In addition to any money which the Commissioners have borrowed or are authorised to borrow under the special Act, the Commissioners may from time to time, under the authority of this Act, borrow all such sums as they think requisite for the purposes of the special Act and this Act and of their undertaking, not exceeding the sum of sixty thousand pounds, on the security of the property and works forming their undertaking, and of the several rates and charges leviable by them under the provisions of the special Act and this Act; and if after having borrowed the said sums, or any part thereof, the Commissioners pay off the same except by means of the sinking fund after mentioned, it shall be lawful for them again to borrow the amount so paid off, and so from time to time.

Security for borrowed money.

18. The money authorised to be borrowed by this Act may be secured by mortgages in terms of and as provided for in the special Act with regard to the money thereby authorised to be borrowed on mortgage; and all the powers, forms, and provisions of the special Act with regard to the borrowing of money thereby authorised, and with regard to the mortgages to be granted therefor, shall apply to the money by this Act authorised to be borrowed and to the transfer and discharge of all mortgages granted therefor; but providing that the mortgages to be granted for the money hereby authorised to be borrowed shall declare that they are so granted by virtue or by and under the powers of this Act: Provided also, that all mortgages granted or to be granted by the Commissioners in pursuance of the special Act shall have priority over any mortgages to be granted in virtue of this Act: Provided further, that nothing contained in or done or suffered under this Act shall prejudice or affect the preference and priority of the perpetual annuities mentioned in the special Act and conferred by that Act; and every judicial factor who may be appointed and acting under the provisions of sections seventy-nine and eighty of the special Act shall apply and pay over the balance of the sums received by him, as such judicial factor, to the several parties entitled to payment out of the said rates and charges and other income of the Commissioners, according to their respective rights and priorities herein-before prescribed.

Estimates and charges and contingent guarantee rate.

19. The estimate to be made up under section sixty-nine of the special Act, and the charges to be fixed by the Commissioners under that section, shall not only include and be sufficient, with the other revenues of the Commissioners, to defray the annual sums or expenditure specified in said section sixty-nine, but also the interest of any money borrowed or raised under the provisions of this Act, and the payment to the sinking fund, and the expense of ma in-

taining and managing the additional works hereby authorised, and all other annual expenditure arising out of or consequent on the works hereby authorised; and "the gas contingent guarantee rate," leviable by the Commissioners under section seventy of the special Act, shall be sufficient to meet any deficiency in the moneys required to pay, not only said annual sums or expenditure, but also said interest, payment to sinking fund, expense, and other annual expenditure.

Capital account.

20. The Commissioners shall open and keep up in their books a capital account, and year by year revise and adjust the same at their annual general meeting.

Application of rates and charges.

21. The rates and charges levied or leviable under the authority of the special Act or this Act, and the other revenues of the Commissioners, whether arising under the special Act or this Act, shall be applied in the following order of priority; that is to say, (first) in defraying the expenses of the management and maintenance of the undertaking of the Commissioners under the special Act and this Act, including the annual costs, charges, and expenses of providing and supplying gas, and the payment of any feu duties or ground annuals exigible in respect of any lands or property forming part of the undertaking; (secondly) in payment of the perpetual annuities by the special Act required to be paid, and of the interest on any moneys, not exceeding in the whole the sum of forty thousand pounds, now or hereafter borrowed under the authority of that Act; (thirdly) in payment of the interest of money which may be borrowed under the authority of this Act; (fourthly) in payment of the sums by the special Act and this Act directed to be set apart as a sinking fund; and (lastly) in payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes, and of extending the works, mains, and pipes, from time to time, as the Commissioners shall think it reasonable to charge against the revenue for the year, and of any other necessary annual expenditure.

Application of borrowed money.

22. The several sums borrowed by the Commissioners under the authority of this Act shall be applied in terms and for the purposes of the special Act and this Act only: Provided always, that no part thereof shall be applied to purposes for which the annual revenue of the Commissioners is applicable.

Protection of lenders from injury.

23. Any person lending or paying money under the special Act or this Act to the Commissioners shall not be bound or entitled to inquire as to the observance by the Commissioners of any provisions of the special Act or this Act, or of any Act incorporated with

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either, or be bound to see to the application, or be answerable for any loss or non-application, of such money or of any part thereof.

Sinking fund.

24. The Commissioners shall, in addition to the sum provided to be set apart annually as a sinking fund by section eighty-five of the special Act, set apart or pay over annually to the sinking fund thereby provided, after the expiry of five years from the passing of this Act, the sum of twelve hundred pounds, and the said sinking fund shall be from time to time applicable to the redemption of mortgages granted under the powers conferred by this Act as well as by the special Act, or to the other purposes specified in said section, as the Commissioners think proper, and to no other purposes whatever.

Expenses of Act.

25. All costs, charges, and expenses of and incidental to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the moneys to be raised under the authority of this Act.

SCHEDULE referred to in the foregoing Act.

All and whole those lands lying within the parish of Dundee, burgh of Dundee, and county of Forfar, bounded as follows, viz., on the south, by East Dock Street of Dundee; on the north, partly by Blackscroft, partly by the public road leading from Dundee to Broughty Ferry, commonly called the Broughty Ferry Road, partly by the property belonging or reputed to belong to William Roy, and partly by the property belonging or reputed to belong to George Carrie; on the west, by the street or lane called Peep-o'-Day Lane of Dundee; and on the east, partly by the lands belonging or reputed to belong to James Neish of Laws, and partly by the property belonging or reputed to belong to George Carrie.

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