CHAPTER xcvi.

An Act for conferring additional powers upon the Exmouth Gas Company; and for other purposes. [3rd July 1882.] A.D. 1882.

WHEREAS by the Exmouth Gas Act, 1865 (in this Act referred to as "the Act of 1865") the Exmouth Gas Coke and Water Company (Limited) was dissolved and the shareholders therein with other persons were re-incorporated by the name of "the Exmouth Gas Company" (in this Act called "the Company") for the purpose of making and supplying gas within the limits of the Act of 1865: 28 & 29 Vict. c. xxviii.

And whereas by the Act of 1865 the share capital of the Company was fixed at £6,600 of which sum £3,600 is in that Act and in this Act called original capital and £3,000 is in that Act and in this Act called additional capital with borrowing powers to the extent of £1,650:

And whereas the Company have created and issued shares to the extent of £6,600 and the shares representing the same have been fully paid up:

And whereas the Company have created and issued debenture stock to the amount of £1,650 being the whole amount which by the Act of 1865 they were authorised to borrow:

And whereas the Company have as they allege misinterpreted the powers granted by the Act of 1865 for the creation of debenture stock treating the powers to create debenture stock as a borrowing power additional to the power to borrow on mortgage and have created and issued debenture stock to the further amount of £1,350 which sum has been expended on the undertaking of the Company but in the creation of such last-mentioned debenture stock the Company have exceeded their powers in that behalf and it is expedient that the creation and issue of such debenture stock should be confirmed but that the debt thereby created should be paid out of the profits of the Company applicable to dividends:

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And whereas the increased and increasing demand for gas within the district of the Company renders necessary an increasing outlay of capital by the Company and it is expedient that the powers herein contained should be granted to the Company in this respect:

And whereas it is expedient that the Company should be authorised to enter into contracts for the sale of gas in bulk and to acquire and exercise patent rights and licenses with respect to the manufacture and distribution of gas:

And whereas it is expedient that the Company should be authorised to purchase or hire and to use let and sell gas and other fittings and engines stoves pipes and other appliances for lighting and warming houses and buildings the cooking of food for motive power and for other purposes:

And whereas it is also expedient that the Act of 1865 should be in some respects amended and that the further powers and conditions herein-after contained should be granted to and imposed upon the Company:

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 for all purposes as the Exmouth Gas Act 1882.

This Act and Act of 1865 to be read together.

2. The Act of 1865 and the Acts incorporated therewith are incorporated with and form part of this Act and the said Acts as amended and extended by this Act and this Act shall be read and have effect together as one Act as fully and effectually as if the purposes of this Act had been purposes authorised by the Act of 1865: Provided always that wherever the provisions of this Act are inconsistent with the provisions of the Act of 1865 the provisions of this Act shall prevail.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

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

The distribution of the capital of the Company into shares;

The transfer and 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 consolidation of the shares into stock;
The general meetings and the exercise of the right of voting by the shareholders;
The making of dividends;
The giving of notices; and
The access to the special Acts;

and Part I. (relating to the cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 and the Companies Clauses Act 1869 shall be incorporated with and form part of this Act and the Gasworks Clauses Act 1871 shall apply to the undertaking of the Company and to the additional capital which they are by this Act authorised to raise. 26 & 27 Vict. c. 118. 32 & 33 Vict. c. 48. 34 & 35 Vict. c. 41.

Interpretation.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings unless there be something in the subject or context repugnant to such construction and the expressions "superior courts" or "court 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 in respect of which the expression is used were a simple contract debt and not a debt or demand created by statute.

Providing for repayment of unauthorised debentures.

5. The debenture stock of the Company is hereby confirmed to the amount of three thousand pounds but the Company shall not pay in any year any dividend or bonus on any of their ordinary shares or stock amounting separately or together to a higher rate than six per centum per annum until they have paid off out of divisible profits the amount of one thousand three hundred and fifty pounds debenture stock created in excess of their powers as aforesaid and have cancelled the same.

Power to Company to raise additional capital.

6. The Company may from time to time raise (in addition to their present share capital of six thousand six hundred pounds) any further sums not exceeding in the whole twenty thousand pounds by the creation and issue of new ordinary shares or stock or new preference shares and stock or wholly or partly by any one or more of those modes but the Company shall not issue any share of less nominal value than ten pounds nor shall any such share or stock vest in the person or corporation accepting the same unless and until the full nominal amount of such share or stock together with any

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offered to shareholders.

respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863: Provided always that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender in the manner and subject to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act.

Application of premium arising on issue of shares or stock.

16. Any sum of money which shall arise from the issue of any such shares or stock by way of premium after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the works of the Company or in paying off money borrowed or owing on mortgage by the Company and shall not be considered as part of the capital of the Company entitled to dividend.

Standard price for gas.

17. The standard price to be charged by the Company for the gas supplied by them to persons who shall burn the same by meter shall be five shillings per thousand cubic feet: Provided always that the Company may from time to time increase or diminish such standard price subject to a decrease or increase in the standard rates of dividend to be calculated as follows:—

For every penny per one thousand cubic feet charged by the Company in any year in excess or in diminution of the standard price of five shillings the standard rates of dividend shall for each year be reduced or increased by five shillings in the hundred pounds per annum.

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

18. If the clear profits of the undertaking of the Company in any year amount to a larger sum than is sufficient to pay the standard rates of dividend the excess beyond the sum necessary for that purpose may from time to time to the extent of one per centum per annum upon the paid up capital of the Company be invested in Government or other securities and the dividends and interest arising from such securities shall also be invested in the same or like securities in order that the same may accumulate at compound interest until the fund so formed amounts to a sum equal to one twentieth of the paid up capital of the Company which sum shall form an insurance fund to meet any extraordinary claim demand or charge which may at any time arise against or fall upon the Company from accidents strikes or other circumstances which in the opinion of a justice due care and management could not have prevented and if such fund be at any time reduced it may thereafter be again made up to the said sum and so from time to

time as often as such reduction shall happen: Provided that when and so often as the fund shall reach one-twentieth part of the paid up capital the interest thereon shall be carried to the credit of the fund available for dividend: Provided also that resort may from time to time be had to the insurance fund to meet any extraordinary claim or demand as aforesaid although such fund may not at any time have reached or may have been reduced below the full amount of one-twentieth as aforesaid.

Application of excess of profits over standard rates of dividend.

19. If the clear profits of the undertaking of the Company in any year amount to a larger sum than is sufficient to pay the standard rates of dividend on the ordinary share capital or stock of the Company the excess or such portion of it as is not carried to the insurance fund shall be carried to the credit of the divisible profits of such undertaking for the next following year.

Power to create a reserve fund out of dividends in excess of the standard rates of dividend and application thereof.

20. When in any year the amount of the standard rates of dividend shall by reason of a diminution of the standard price charged by the Company in such year be or admit of being increased then out of the amount of the divisible profits of the Company applicable to the payment of such increase the Company may in any such year set apart such sum as they shall think fit and all sums (if any) so set apart by the Company and any reserve or any other fund of the Company existing at the passing of this Act may be invested in Government or other securities and the dividends and interest arising from such securities may also be invested in the same or the like securities in order that the same may accumulate at compound interest and the sum so formed shall be called "the reserve fund" and shall be applicable to the payment of dividend in any year in which the clear profits of the Company shall be insufficient to enable the Company in such year to pay the standard rates of dividend on the ordinary share capital or stock of the Company and save as in this Act provided no sum shall in any year be carried by the Company to any reserve fund.

Power to borrow in respect of additional capital.

21. The Company may from time to time subject to the provisions of this Act borrow on mortgage in respect of the additional capital of twenty thousand pounds by this Act authorised to be raised by shares or stock any sums not exceeding in the whole five thousand pounds and the Company may as each sum of five thousand pounds of such additional capital has been issued and accepted and one half of the amount of each such sum has been paid up borrow on mortgage in respect of each such sum of five thousand pounds any sum or sums not exceeding in the whole one thousand two hundred and fifty pounds but in no case shall any part of the said respective sums be borrowed until the Company have proved to the justice who is to certify under the fortieth

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section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for so much of the capital in respect of which such borrowing power is sought to be exercised as is to be raised by means of shares 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 that stock for one half of so much of the capital in respect of which such borrowing powers are sought to be exercised as is to be raised by means of stock is fully paid up and that such shares or stock as the case may be were or was issued bonâ fide and are or is held by the persons or corporations to whom the same were or was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

As to conversion of borrowed money into capital.

22. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or any part thereof by the creation of shares or stock instead of borrowing or to convert into capital the amount borrowed under the provisions of this Act unless in either case all dividends upon the shares or stock whether ordinary or preferential are limited to a rate not exceeding five pounds per centum per annum.

Arrears may be enforced by appointment of a receiver.

23. The mortgagees for the time being of the Company may from time to time enforce the payment of arrears of interest and principal or principal and interest due to any such mortgagees 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 application for the appointment of such receiver shall be made shall not be less than one thousand pounds in the whole.

Existing mortgages to have priority.

24. All mortgages granted by the Company in pursuance of the powers of the Act of 1865 before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Act of 1865 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.

Debenture stock.

25. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863

but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stocks or mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages.

Priority of mortgages and debenture stock over other debts.

26. All money to be raised by the Company on mortgage or debenture stock under the provisions 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 any debts incurred or engagements entered into by them after the passing of this Act: Provided always that this priority shall not affect any claim against the Company or their property 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 Act Amendment Act 1860 or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest or dividend on their mortgages or debenture stock nor shall anything in this section 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.

27. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act and for the general purposes of the Company.

Power to supply gas apparatus engines stoves &c. for warming cooking &c.

28. The Company may purchase or hire and let or otherwise deal in and supply and fix set up and alter remove and refix gas and other apparatus engines stoves fittings pipes and other appliances articles and things for the warming of houses buildings and other places and for the cooking of food and for motive power and all other purposes for which gas or other heating agents are or hereafter may be used and may require and take such remuneration in money or such rents and charges for the sale supply fixing setting up letting or use of such apparatus engines stoves fittings pipes and other appliances articles and things as aforesaid as may be agreed upon between the Company and the person to or by whom the same are sold let or used.

Power to supply gas for heating and cooking purposes.

29. The Company may on the request of the owner or occupier of any premises within the limits of this Act give and continue to give a supply of gas for heating such premises or for cooking purposes or

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motive power on such premises and may furnish and lay any pipes stoves apparatus fittings or conveniences for the purposes of this section on such terms and conditions in all respects as may be agreed on between the Company and such owner or occupier as aforesaid.

Gas not to be manufactured except on lands scheduled.

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

Power to contract for sale of gas in bulk.

31. The Company may from time to time enter into and carry into effect contracts and agreements with any corporation company highway board urban or rural sanitary authority or other local authority person or persons with respect to the supply by the Company of gas in bulk within their authorised limits of supply.

Power to hold licenses under letters patent.

32. Subject to the provisions of this Act the Company may but not so as to acquire any exclusive right therein contract for take hold and use within the limits of this Act any leave license or authority to work use exercise or put in practice any invention under letters patent or otherwise granting any right or privilege of working using or vending any invention in relation to the manufacture or distribution of gas or the conversion manufacture utilisation or distribution of the materials used in or resulting from the manufacture of gas.

Pressure of gas.

33. All gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six tenths of an inch and from sunset to midnight not less than eight tenths of an inch in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer and any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment from time to time and at any 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.

Quality of gas.

34. The prescribed number of candles shall be fourteen.

Repeal of part of Act of 1865.

35. Section 45 (price of gas) of the Act of 1865 shall be and the same is hereby repealed.

Burner.

36. The prescribed burner shall be Sugg's London Argand Burner No. 1 with a six-inch by one-and-three-quarter-inch glass chimney but if at any time and so long as the gas flame rises above

or tails over the top of that glass a six-inch by two-inch chimney shall be used.

Testing place and notice of testing.

37. The testing place shall be the testing place already provided by the Company at their offices at Exmouth and six hours' previous notice shall be given to the Company at the time at which any testing shall be conducted.

Company to pay interest on money deposited as security.

38. 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 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 subject however to the right of the Company to set off the same against any money due to the Company from such person.

As to proceedings in bankruptcy on behalf of the Company.

39. If any person against whom the Company have any claim or demand under this Act for gas rents or otherwise becomes bankrupt or enters into any liquidation by arrangement or composition with creditors any person appointed for that purpose by the directors or secretary or clerk 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.

Authentication of notices.

40. Any summons warrant demand or notice or other such document to be issued or given for any of the purposes of this Act 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 or clerk to the Company shall be a sufficient authentication.

Application of penalties.

41. Every penalty imposed by this Act shall (except where otherwise expressly provided and except where the Company shall be the party by whom the penalty has to be paid) be paid to the Company.

Notice by consumers of intention to discontinue gas supply.

42. Any consumer desiring to discontinue a supply of gas on any premises where a meter has been fixed for his use shall give to the Company twenty-four hours notice in writing of such his intention and on neglect of giving such notice shall be liable to pay and shall pay to the Company for all gas registered by such meter up to and until the expiry of twenty-four hours from the receipt of such notice.

Costs of Act.

43. All costs charges and expenses of and incident to the passing of this Act and preparatory thereto shall be paid by the Company.

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The SCHEDULE to the foregoing Act.

A piece or parcel of land now occupied or partly occupied by the gasworks known as the Exmouth Gasworks containing by admeasurement one acre and thirty-three perches be the same more or less situate in the parish of Withycombe Raleigh in the county of Devon and bounded on or towards the west north and north east by divers messuages and land now or lately belonging or reputed to belong to Mrs. Anderson Joseph Henry Radford Elizabeth Balmanno Richard Sprague Alfred Augustus Carter the executors of James Melluish John Long Mrs. Parsons John Haywood and Fanny Hayne and on the south-east and south by lands and messuages belonging to or reputed to belong to the trustees of the will of the late Right Honourable John Baron Rolle and a public street called Union Street.

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