CHAPTER xxviii.

An Act to confer further powers upon the Filey Water and Gas Company in relation to the supply of Water and Gas to extend their limits for the supply of Water to empower them to raise additional capital and for other purposes. [11th June 1891.]

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WHEREAS the Filey Water and Gas Company was incorporated by the Filey Waterworks Act 1856 (hereinafter referred to as "the recited Act") by the name of the Filey Waterworks Company for the purpose of supplying with water the inhabitants buildings and lands within the limits of that Act for the supply of water and for executing all necessary works for that purpose according to the provisions of that Act and the Acts incorporated therewith and for other the purposes therein contained and was authorised to raise six thousand pounds capital in shares and to borrow on mortgage or bond any sum or sums of money not exceeding in the whole a sum equal to one-fourth part of their share capital for the time being: 19 Vict. c. xix.

And whereas the said Company was by the recited Act authorised to agree with the persons constituting the partnership called the Filey Gas Company to purchase the undertaking of that Company upon terms to be mutually agreed upon by the two companies and it was thereby enacted that immediately upon the undertaking of the said Gas Company becoming vested in the Filey Waterworks Company that Company should assume and use the name of "the Filey Water and Gas Company" (hereinafter referred to as "the Company") and that it should be lawful for the Company to manufacture gas and subject to the provisions of the recited Act from time to time upon the lands and within the limits of the then existing gasworks as therein defined to maintain extend and improve their existing gasworks and from time to time within those limits to construct and maintain such additional gasworks and apparatus and such buildings for the manufacture purifying

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and storing of gas and to do all such other acts as they should think necessary for supplying the district within the limits of the recited Act for the supply of gas with gas and for carrying on the business of a gas company and that in case the Company should become the purchasers of the undertaking of the Filey Gas Company it should be lawful for them to raise in addition to the other share capital which they were thereby authorised to raise any further sum or sums of money which might be necessary to effect such purchase or to extend or improve the said gasworks when so purchased not exceeding in the whole the sum of four thousand pounds:

And whereas the Company made the works authorised by the recited Act for the supply of water and have since supplied the inhabitants within the limits of that Act for the supply of water with water and also purchased the undertaking of the Filey Gas Company and have since supplied the inhabitants within the limits of that Act for the supply of gas with gas:

And whereas the Company have raised the whole of their authorised capital of ten thousand pounds and have borrowed on mortgage the whole amount of two thousand five hundred pounds authorised by the recited Act and have expended the whole of the moneys so raised and borrowed as aforesaid upon their undertaking and have in addition incurred a debt of three thousand seven hundred and seventy-six pounds fifteen shillings on capital account in extending and improving their water and gas works:

And whereas it is expedient that the limits of the recited Act for the supply of water by the Company be extended as hereinafter provided:

And whereas the Company require further money for executing the purposes of the recited Act and this Act and it is expedient that they be authorised to raise additional capital for those purposes and for the purpose of paying off and discharging the said debt of three thousand seven hundred and seventy-six pounds fifteen shillings:

And whereas the profits of the undertaking divided among the shareholders of the Company during the five financial years next before the passing of this Act have not exceeded the rate of three pounds per centum per annum and the Company's shares are at a considerable discount And whereas the shareholders have subscribed or procured subscribers to the additional capital by this Act authorised to the amount of five thousand pounds of such capital at par:

And whereas it is expedient that the Company and the Corporation of Scarborough be authorised to enter into agreements for the supply of water by the Corporation to the Company:

And whereas it is expedient to confer further powers upon the Company in relation to the supply of water and gas as hereinafter provided:

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 as the Filey Water and Gas Act 1891.

Incorporation of general Acts.

2. The following Acts and parts of Acts so far as they are applicable for the purposes and are not inconsistent with the provisions of this Act are hereby incorporated with this Act namely:—

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 or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment 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 exercise of the right of voting by the shareholders;

The making of dividends; and

The provision to be made for affording access to the special Act by all parties interested:

Parts I. II. and III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869: and

The Waterworks Clauses Acts 1847 (except the words in the forty-fourth section thereof "with the consent in writing of the "owner or reputed owner of any such house or of the agent of "such owner") and 1863: and

The Gasworks Clauses Act 1847:

And the Gasworks Clauses Act 1871 shall apply to the existing gas undertaking of the Company as if the same had been authorised by this Act but nothing in that Act contained shall take away lessen or affect the powers of the Company to alter improve enlarge extend

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or renew works for the manufacture or storage of gas or for the manufacture or conversion of residual products or to manufacture or store gas or to manufacture or convert residual products upon the lands described in the schedule to this Act annexed.

Interpretation.

3. Terms to which meanings are assigned in the Gasworks Clauses Act 1871 or in any Act incorporated wholly or in part with this Act or which have therein special meanings have in this Act the same respective meanings unless there be something in the subject or context repugnant to such construction.

In this Act and for the purposes of this Act in Acts incorporated wholly or in part with this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt and not a debt or demand created by statute.

From and after the passing of this Act the recited Act shall be read and have effect as if the words "with the consent in writing of "the owner or reputed owner of any such house or of the agent of "such owner" had been omitted from the forty-fourth section of the Waterworks Clauses Act 1847 incorporated therewith.

Extension of limits for supply of water.

4. The limits within which the Company may supply water shall extend to and include the parts of the township of Filey not included in the limits of the recited Act and the townships of Gristhorpe and Lebberston in the parish of Filey in the county of York and the Company may with the consent in writing of the guardians of the poor of the Scarborough Union as the rural sanitary authority having jurisdiction within the said townships of Gristhorpe and Lebberston but not otherwise supply water to the inhabitants of those townships or any of them on such terms and conditions as may be agreed on between the Company and the said inhabitants requiring such supply.

Power to raise additional capital.

5. The Company may from time to time for the purposes of this Act and the recited Act and for the general purposes of their undertaking raise in addition to their existing share capital 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 or stock or at the option of the Company by any one or more of those modes but no more than five thousand pounds of such capital shall be applied for the purposes of their gas undertaking or of gas supply.

Shares not to be issued until one-fifth paid.

6. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such share vest in the person or corporation accepting the

same unless and until a sum not being less than one-fifth of the amount of such share is paid in respect thereof.

Limiting amount of calls.

7. Twenty per centum shall be the largest amount of a call which the Company may make in respect of any such share and there shall be an interval of not less than two months between successive calls.

Rate of dividend on new shares or stock.

8. The prescribed rate of dividend on any new ordinary shares or stock created under the powers of this Act shall not exceed seven pounds per centum per annum and the prescribed rate of preference dividend on any new preference shares or stock shall not exceed five pounds per centum per annum on the amounts actually paid up in each case.

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

9. 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 shares or stock in the capital of the Company a proportionate deduction shall be made in the dividend of each such class.

Except as otherwise provided new shares or stock to be subject to same incidents as other shares or stock.

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

New shares or stock to form part of capital of Company.

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

Dividends on new shares or stock.

12. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

Restriction as to votes in respect of preferential shares or stock.

13. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Receipt in case of persons not sui juris.

14. If any money be payable to a shareholder or mortgagee or debenture stockholder of the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

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Company may borrow money to pay off existing debt.

15. In addition to the sum of two thousand five hundred pounds which the Company were authorised to borrow and have borrowed under the recited Act they may borrow on mortgage of the undertaking any sum or sums not exceeding in the whole the sum of three thousand seven hundred and seventy-seven pounds for the purpose of paying satisfying and discharging the said debt of three thousand seven hundred and seventy-six pounds fifteen shillings.

As to conversion of borrowed money.

16. 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.

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.

Power to create debenture stock.

18. 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 after the passing of this Act created and issued or granted by the Company under this Act 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 stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortages Notice to the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Existing mortgages to have priority.

19. All mortgages granted by the Company and subsisting at the passing of this Act shall during the continuance of such mortgages and subject to the provisions of the recited Act 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.

Date &c. of Act to be marked on mortgages.

20. Every mortgage granted by the Company after the passing of this Act shall be marked with the short title and date of the Act under the powers of which the same is granted.

Priority of mortgages over other debts.

21. All money raised or 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 rent-charge granted or to be granted by them in pursuance of the Lands Clauses Acts 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 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 the Company's undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

Application of money.

22. All money raised under this Act whether by shares stock debenture stock or borrowing shall be applied to the purposes of this Act or the recited Act to which capital is properly applicable.

Where part only of premises supplied with water the whole to pay.

23. The Company shall not be compelled to supply water to the occupier of any part of a dwelling house or for any premises occupied with a dwelling house unless the water rate is paid for the whole of such dwelling house or premises.

Penalty for using water supplied for domestic purposes for other purpose.

24. In addition to and without prejudice to the provisions in the recited Act or this Act contained with regard to the misuse of water supplied by the Company no person supplied by the Company with water for domestic use shall use such water or suffer the same to be used for the purpose of affording power to or in connection with any machinery or apparatus whatsoever and every person offending against this enactment shall for every such offence forfeit and pay to the Company a penalty not exceeding five pounds.

Company not bound to supply water in certain cases.

25. No person shall be entitled to require nor shall the Company be bound to supply any dwelling house with water otherwise than by meter or special agreement where any part of such dwelling house is used for any trade or business purpose for which water is required.

Company not bound to supply several houses by one pipe.

26. The Company shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house supplied by them with water.

Supply of water for domestic purposes not to include certain things.

27. A supply of water for domestic purposes shall not include a supply of water for sluicing or flushing tanks.

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Supply of water for other purposes not to prejudice domestic supply.

28. No person shall be entitled to a supply of water for other than domestic purposes if such supply interfere with the sufficiency of the supply for domestic purposes.

Water supplied by measure.

29. The Company may agree with any person to supply him with water by measure and may require any person supplied with water for other than domestic purposes to take and pay for his supply by measure In both cases a meter for ascertaining the quantity of water consumed shall be provided and kept in repair by the Company at such reasonable rent or remuneration as may be agreed on between the Company and the consumer or in case of dispute as may be fixed by two justices.

Penalty for injury to and fraudulent use of water meters &c.

30. Every person who shall wilfully fraudulently or by culpable negligence injure or cause or suffer to be injured any water meter or any pipes fittings or apparatus used for the supply of water belonging to the Company or who shall fraudulently alter the index of any water meter or shall wilfully or knowingly prevent any water meter from properly registering the quantity of water supplied shall for every such offence forfeit and pay to the Company a sum not exceeding five pounds and the Company may in addition recover from such person the amount of damage by them sustained by or in consequence of any such act fraud or neglect.

Company may make byelaws for prevention of waste &c. of water.

31.—(1.) The Company may from time to time make such byelaws as they think fit for the purpose of preventing waste misuse undue consumption or contamination of the water of the Company and may by such byelaws direct the use and prescribe the size make nature position strength workmanship and materials and the mode of arrangement connection disconnection alteration and repair of the service or communication and other pipes meters valves cocks ferrules cisterns tanks baths soil-pans water-closets and other apparatus fittings means contrivances receptacles and appliances whatsoever or any of them to be used for carrying measuring delivering rendering storing and using water and may forbid any arrangement and the use of any of the several things before mentioned likely to cause waste misuse undue consumption wrong measurement or contamination of water.

(2.) No such byelaws shall be in force except in the parts of their district in which the Company are for the time being bound to supply and do in fact supply or are prepared on demand to supply water under constant pressure nor unless and until such byelaws have been submitted to and confirmed by the Local Government Board which Board is hereby empowered to allow with or without alteration or disallow the same or any of them as they may think

proper and no such byelaws shall be confirmed until after the expiration of one month after notice in writing of the intention to submit the same for confirmation together with a copy of the proposed byelaws shall have been given by or on behalf of the Company to every sanitary authority within the limits within which such byelaws are intended to apply and any such authority may within the said period of one month make such representation with reference thereto to the Local Government Board as such authority shall think expedient.

(3.) A copy of all such byelaws in force for the time being shall be kept at the office of the Company All persons may at all reasonable times inspect such copy without payment and the Company shall cause to be delivered a printed copy of all such byelaws for the time being in force to every person applying for the same on payment of a sum not exceeding sixpence for each copy.

(4.) A printed copy of any such byelaws dated and purporting to have been made as aforesaid and to be sealed with the seal of the Company and to have been confirmed by the Local Government Board shall be evidence until the contrary be proved in all legal proceedings of the due making confirmation publication and existence of such byelaws without further or other proof.

(5.) In case of the failure of any person to observe such byelaws as are for the time being in force the Company may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any pipe meter valve cock ferrule cistern tank bath soil-pan water-closet or other apparatus means contrivance or receptacle fittings or appliances belonging to or used by such person for the purposes of supply and not being in accordance with such byelaws and the expense of every such repair replacement or alteration shall be repaid to the Company by the person on whose credit the water is supplied and may be recovered by them as water rate is recoverable.

(6.) Any person who shall offend against any such byelaws shall without prejudice to any other right or remedy for the protection of the Company or punishment of the offender for every such offence forfeit and pay to the Company a sum not exceeding five pounds and a further daily sum not exceeding forty shillings for each day on which such offence shall occur after conviction therefor and the Company may in addition thereto recover the amount of any damages sustained by them.

For preventing contamination of water.

32. If and whenever any person supplied with water by the Company wilfully fails to do anything which under the recited

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Act or this Act or any byelaw in force under the recited Act or this Act ought to be done for preventing the contamination of water the Company may cut off or stop any pipe by or through which water is supplied to him and may cease to supply him with water so long as the cause of contamination remains or is not remedied and also may recover in any court of competent jurisdiction from any person so offending the amount of all damage sustained by reason thereof and the remedies of the Company under this enactment shall be in addition to their other remedies in this behalf.

Entry on premises to cut off supply in certain cases and remove fittings.

33. In all cases in which the Company are by this Act authorised to cut off or stop the pipe by or through which water is supplied to any premises and in all cases in which any premises which shall have been supplied with water shall have become unoccupied or upon which it shall be necessary to enter for the purpose of preventing the waste of water the Company their agents and workmen (after giving notice to the owner or occupier as hereinafter provided) may enter into any such premises between the hours of eight of the clock in the forenoon and six of the clock in the afternoon for the purpose of preventing such waste of water or cutting off any pipe by which the water of the Company shall be supplied to such premises and may in the case of unoccupied premises remove any pipe fittings meter or apparatus the property of the Company and any persons preventing or obstructing or in anywise interfering with the officers servants or workmen of the Company while effecting or endeavouring to effect such entry or cutting off or removal shall for every such offence forfeit and pay to the Company a penalty not exceeding five pounds.

Mode of giving notice.

34. The notice to be given previously to such entry shall be in writing and shall be served in manner following (that is to say):—

If the premises intended to be entered be occupied then by leaving the notice thereat or by delivering the same to the occupier thereof twenty-four hours at least previously to such entry:

If such premises be unoccupied and the owner thereof or his usual place of abode be in England and be known to the Company then by delivering the notice to such owner or by leaving the same at his usual or last known place of abode twenty-four hours or by sending the same by post in a registered letter addressed to him at his usual or last known place of abode forty-eight hours at least previously to such entry:

If such premises be unoccupied and the owner thereof or his usual place of abode be not in England or be not known to the Company after due inquiry then by affixing the notice on some conspicuous part of such premises two days at least previously to such entry:

And for the purposes of this section any person receiving the rents of any such premises either on his own account or as agent for any other person shall be deemed the owner of such premises:

Provided always that in cases of emergency it shall be lawful for the Company by their agents and workmen authorised in writing under the hand of a justice at any time to enter into any unoccupied premises for the purpose of preventing waste or contamination of the water supplied by the Company such agents and workmen doing as little damage as possible and making good any damage done by them to the premises.

Water bye-laws of the Company to be complied with.

35. The Company shall not be bound to begin to supply water to any person in respect of any premises unless and until the water byelaws of the Company applicable to such premises shall have been duly complied with.

Company may supply gas ovens water fittings &c.

36. The Company may if they think fit at the request of any person supplied or about to be supplied by them with gas or water (as the case may be) furnish to him at his costs and charges and also from time to time at his costs and charges repair or alter any gas ovens or stoves for heating or cooking or other appliances for using gas and any pipes fittings and apparatus for the conveyance reception storage or use of water.

Meters not to be disconnected &c. except by or under direction or with consent of Company.

37. No meter whether supplied by or the property of the Company or the consumer shall be disconnected altered or repaired except by or under the direction or with the consent of the Company and the Company shall be entitled to keep all gas meters which may be supplied by the consumer in repair at his cost at such moderate rate of remuneration as may be agreed on between the Company and the consumer or in case of dispute as may be fixed by two justices.

Corporation of Scarborough may contract to supply water to the Company.

38. The mayor aldermen and burgesses of the borough of Scarborough (herein-after called "the corporation") and the Company may from time to time enter into and carry into effect alter and rescind any contract or arrangement for the supply of water to the Company from the waterworks of the Corporation for such price or consideration and upon such terms and conditions and for such period as may be agreed upon and during the subsistence of any such contract or arrangement the Company may sell and supply such water within their limits for the supply of water but

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the Corporation shall not under any such agreement supply water to the Company so as to interfere with a proper supply of water for all purposes to the borough of Scarborough.

Notice of discontinuance of supply of water or gas to be in writing.

39. A notice to the Company to discontinue the supply of water or gas shall not be of any effect unless it is in writing and left at the office of the Company or sent by registered letter to the secretary of the Company.

Pressure of gas.

40. 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 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.

Testing place.

41. Within six months from the passing of this Act a testing place shall be provided at the Company's gasworks.

Burner.

42. The prescribed burner shall be the burner prescribed by the fifty-fifth section of the recited Act.

Sums due to Company may be recovered in any court of competent jurisdiction.

43. The Company may recover any rate rent or sum of money which shall be due to them or any damages costs or expenses by action or proceeding in any court of competent jurisdiction and their remedy under this section shall be in addition to their other remedies for the recovery thereof.

Company to pay interest on money deposited as security.

44. If any person is required by the Company to give to them security for the payment of the price of gas or the price or rent of a meter the Company shall pay interest at 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.

Liability to rate not to disqualify justice &c.

45. A justice or a judge of any court shall not be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any water gas or meter rent rate or charge.

Contents of summons.

46. Any summons or warrant issued for any of the purposes of the recited Act and this Act or either of them may contain in the body thereof or in a schedule thereto several sums.

Costs of distress.

47. Any justice who issues a warrant of distress for any of the purposes of this Act may order that the costs of the proceedings for the recovery of the money to be levied be paid by the person liable to pay such money and in that case such costs shall be ascertained by the justice and shall be included in the warrant of distress.

Application of penalties.

48. Every penalty imposed by the recited Act or this Act or by any byelaw made under the recited Act or this Act shall except where otherwise expressly provided and except where the Company shall be the party by whom such penalty has to be paid be paid to the Company.

Penalties not cumulative.

49. Penalties imposed on the Company for one and the same offence by several Acts of Parliament shall not be cumulative and for this purpose this Act and any Act incorporated wholly or in part with this Act or by this Act made applicable to the Company or their undertaking or any part thereof shall be deemed several Acts.

Costs of Act.

50. 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.

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The SCHEDULE referred to in the foregoing Act.

Gas Lands.

All that piece or parcel of land at present occupied by the Company's gas-works situate in the parish of Filey and containing three roods or thereabouts and bounded on or towards the north-west and north by the road leading from Filey Railway Station to the town of Filey on or towards the east and south-east by grass fields and on or towards the south-west by the station yard and premises of the North Eastern Railway Company.

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