CHAPTER xliii.

An Act to confirm a Provisional Order of the Local Government Board relating to Shoeburyness. A.D. 1901.

[2nd July 1901.]

WHEREAS the Local Government Board have made the Provisional Order set forth in the schedule hereto under the Gas and Water Works Facilities Act 1870 and the Public Health Act 1875: 33 & 34 Vict. c. 70. 38 & 39 Vict. c. 55.

And whereas it is requisite that the said Order should be confirmed by Parliament and that the provisions herein contained should be enacted with reference thereto:

Be it therefore enacted by the King'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:—

Order in schedule confirmed.

1. The Order set out in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force.

Restriction of power to take houses of persons of the labouring class.

2. The Urban District Council of Shoeburyness shall not under the powers of the Shoeburyness Gas Order 1901 hereby confirmed purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partly by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" means mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others

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except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Short title.

3. This Act may be cited as the Local Government Board's Provisional Order Confirmation (Gas) Act 1901.

SCHEDULE.

URBAN DISTRICT OF SHOEBURYNESS.

Shoeburyness (Gas) Order.

Provisional Order under the Gas and Water Works Facilities Act 1870.

To the Urban District Council of Shoeburyness;

And to all others whom it may concern.

WHEREAS the Urban District Council of Shoeburyness (herein-after referred to as "the Council") are the Urban Authority within the meaning of the Public Health Act 1875 for the Urban District of Shoeburyness in the County of Essex (herein-after referred to as "the district"):

And whereas the Council have subject to the sanction of the Local Government Board agreed to buy and the Shoeburyness Gas Company Limited (herein-after referred to as "the Company") have in pursuance of a special resolution of the members of the Company passed in manner provided by the Companies Act 1862 agreed to sell and transfer to the Council the gas-works and all the gas undertaking lands (including the lands described in the schedule hereto) plant machinery goods chattels and other property assets and effects of the Company all which matters herein-before mentioned as objects of the said sale and transfer are in this Order referred to as "the undertaking of the Company":

And whereas under the Public Health Act 1875 the Council are themselves empowered to supply gas throughout the whole of the district and have applied to the Local Government Board to issue a Provisional Order authorising them to maintain and continue the undertaking of the Company if and when the same shall be acquired by them to manufacture and supply gas and to borrow money for those purposes:

Now therefore we the Local Government Board in pursuance of the powers given to us by Section 161 of the Public Health Act 1875 and by any other enactments in that behalf do hereby order that from and after the date of the Act of Parliament confirming this Order the following provisions shall take effect viz.:— 38 & 39 Vict. c. 55.

Art. I. This Order may be cited as the Shoeburyness Gas Order 1901. Short title.

Art. II. The several words and expressions to which by the Acts in whole or in part incorporated with this Order and by the Gas and Water Works Facilities Act 1870 meanings are assigned have in this Order the same respective meanings (unless there be something in the subject-matter or context repugnant to that construction). Interpretation.

Art. III. The limits within which this Order shall be in force and have effect shall be the district. Limits of Order.

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Application of Public Health Act 1875.

Art. IV. The Council shall in relation to the purposes of this Order exercise and be subject to all the powers and provisions of the Public Health Act 1875 so far as the same are applicable to the purposes of this Order but nothing herein contained shall empower the Council to acquire lands otherwise than by agreement.

Incorporation of Acts.

Art. V.—(1.) The provisions of the Lands Clauses Acts (except with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking and except Section 127 of the Lands Clauses Consolidation Act 1845) and the provisions of the Gasworks Clauses Act 1847 (except Sections 30 to 38 and Sections 43 45 46 and 47 thereof) and of the Gasworks Clauses Act 1871 (except Sections 8 24 to 27 Sections 29 and 35 and Schedule B thereof) are incorporated with this Order and the said provisions of the said Gasworks Clauses Acts as so incorporated shall have effect subject to the provisions of this Order and shall apply to the mains pipes or works acquired by or vested in the Council under or by virtue of the Public Health Act 1875 or of this Order and to the mains pipes or works which may be laid down or constructed under the authority of this Order.

(2.) The Council may purchase by agreement and subject to the provisions of this Order any land not exceeding two acres in addition to the lands described in the schedule hereto.

Construction of works.

Art. VI. The Council may (when the undertaking of the Company shall have been acquired by them) upon the lands described in the schedule hereto maintain repair renew and continue and from time to time construct extend enlarge alter or when necessary remove the gasworks buildings apparatus and other works for the manufacture and storage of gas and of coke culm asphaltum pitch tar oil ammoniacal liquor and other refuse or residual products arising from the manufacture of gas and any matters producible therefrom and dwellings for any persons employed in the said works and they may subject to the provisions of this Order make gas and supply and sell the same within the district for public and private purposes and may convert or manufacture coke culm asphaltum pitch tar oil ammoniacal liquor and all refuse or residual products arising from the manufacture of gas by them and any matters producible therefrom and may sell and dispose of the same at the gasworks and elsewhere.

Council not to manufacture gas or residual products except on scheduled land.

Art. VII. The Council shall not manufacture gas or any residual products arising in the manufacture of gas on any lands other than the lands described in the schedule hereto neither shall they commence the storage of gas on any lands other than the lands so described which shall be situated within three hundred yards of any dwelling-house without the previous consent in writing of the owner lessee and occupier of such dwelling-house.

Supply of fittings.

Art. VIII. The Council may purchase or hire and sell or let on hire supply and otherwise deal in and fix set up alter remove and re-fix but shall not manufacture gas meters and fittings gas engines gas-cooking ovens stoves ranges pipes burners and other apparatus appliances articles and things used

in the supply or consumption of gas for lighting or heating purposes and for all other purposes for which gas can or may be used and may require and take such remuneration in money or such rents and charges for and make such terms and conditions with respect to the supply sale letting fixing setting up altering removing or re-fixing of such meters fittings engines ovens stoves ranges pipes burners and other apparatus appliances articles and things as aforesaid and for securing their safety and (if the circumstances so require) their return to the Council as may be agreed upon between the Council and the person to or for whom the same are sold supplied let fixed set up altered removed or re-fixed.

Quality of gas.

Art. IX. The quality of the gas supplied by the Council shall with respect to its illuminating power be such as to produce at the testing place hereinafter mentioned a light equal in intensity to the light produced by fifteen sperm candles of six to the pound and shall in all respects be in accordance with the provisions of the Gasworks Clauses Act 1871.

Photometer to be provided.

Art. X. The Council shall before supplying or within one month after commencing to supply gas under the authority of this Order provide and maintain a suitable photometer and other necessary appliances for the purpose of testing the quality of the gas and shall at all times keep the same in proper order and repair.

Pressure.

Art. XI. All gas supplied by the Council to any consumer of gas shall be supplied at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch in height and from sunset to midnight a column of water not less than eight-tenths of an inch in height at the main or as near as may be to the junction therewith of the service pipe supplying such consumer.

Testing place and burner.

Art. XII.—(1.) For the purposes of the Gasworks Clauses Act 1871 the prescribed testing place shall be a testing place to be provided by the Council at the gasworks situate on the lands described in the schedule hereto before supplying or within one month after commencing to supply gas under the authority of this Order and the burner to be used for testing the gas shall be a Sugg's London Argand No. 1 with a six-inch by one-and-three-quarter-inch glass chimney and if at any time the gas flame tails over the top of the glass a six-inch by two-inch chimney shall be used.

(2.) Any gas examiner appointed under the Gasworks Clauses Act 1871 for the purposes of this Order may from time to time subject to the terms of his appointment at such testing place or elsewhere not being the immediate approach to any railway bridge or railway station as and when he thinks fit test the pressure at which the gas is supplied and for that purpose may open any street road passage or place vested in or under the control of any local or road authority and two hours' previous notice shall be given to the Council of the time and place at which any testing for pressure elsewhere than at the testing place will be conducted.

No penalty in case of unavoidable cause.

Art. XIII. No penalty shall be incurred by the Council for insufficiency of pressure defect of illuminating power or for excess of impurity in the

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gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was produced by an unavoidable cause or accident.

Maximum price.

Art. XIV. The price to be charged by the Council for gas supplied by them to consumers shall not exceed five shillings and sixpence per one thousand cubic feet and so on in proportion for any less quantity supplied Provided nevertheless that every odd fraction or portion of one hundred cubic feet may be charged for as one hundred cubic feet.

Price of gas for public supply.

Art. XV. The Council shall keep separate records of the gas supplied to private consumers and for public lighting respectively The price charged for gas for public lighting shall not be less than that charged to private consumers by more than ten per centum.

Council to pay interest on money deposited.

Art. XVI. When the Council require money to be deposited by any person with them by way of security for the payment to them of any moneys which may become due to them by such persons in respect of any supply of gas or of the purchase or hire of any apparatus appliances articles or things mentioned in Article VIII. of this Order the Council shall pay interest at the rate of three pounds per centum per annum on every sum of ten shillings so deposited for every six months during which the same remains in their hands Provided that the Council may if they think fit invest any money so deposited with them in the manner provided by subdivision (3) of Article XX. of this Order as to the sinking fund and in that case the Council shall pay no higher rate of interest than they themselves receive thereon.

Borrowing powers.

Art. XVII. The Council may with the sanction of the Local Government Board and for the purposes of this Order (which purposes shall be deemed to include the costs payable by the Council of and in connexion with the preparation making and confirmation by Parliament of this Order and the sum to be paid for the purchase of the undertaking of the Company) borrow money upon the security of the moneys from time to time received by them by way of revenue under this Order and upon the security of the district fund and general district rate of the district or upon either of such securities.

Local Loans Act and certain provisions of Public Health Act made applicable.

Art. XVIII. For the purpose of raising money under this Order the provisions of the Local Loans Act 1875 shall be available to the Council and Sections 236 to 238 of the Public Health Act 1875 shall apply to all moneys borrowed or re-borrowed on mortgage under this Order.

Period for repayment of money borrowed.

Art. XIX. The moneys borrowed under this Order shall be repaid within such period not exceeding fifty years from the date of borrowing as the Council with the sanction of the Local Government Board in each case determine and the period so determined and sanctioned is herein-after referred to as "the prescribed period" and shall with reference to the moneys to be repaid be the prescribed period for the purposes of this Order and of the Local Loans Act 1875.

Mode of repayment.

Art. XX.—(1.) The Council shall repay the moneys borrowed under this Order (other than moneys borrowed under the provisions of the Local

Loans Act 1875) by equal annual instalments of principal or by equal annual instalments of principal and interest combined or by means of a sinking fund or partly by one of these methods and partly by another or the others of them.

Formation maintenance and application of sinking fund.

(2.) Subject to the provisions of Article XXI. of this Order if the Council determine to repay by means of a sinking fund any moneys borrowed under this Order such sinking fund shall be formed and maintained either—

(*a*) by payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is herein-after called a non-accumulating sinking fund; or

(*b*) by payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three pounds per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed A sinking fund so formed is herein-after called an accumulating sinking fund.

(3.) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority as defined by Section 34 of the Local Loans Act 1875 but exclusive in every case of the securities of the Council the Council being at liberty from time to time to vary and transpose such investments.

(4.) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Council towards the equal annual payments to the fund.

(5.) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(6.)—(*a*.) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any deficiency shall be made good by the Council:

(*b*.) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if

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the same were invested at the rate per centum per annum on which the equal annual payments to the fund are based any such excess may be applied towards such equal annual payments.

(7.) Any expenses connected with the formation maintenance investment application or management of or otherwise in relation to any sinking fund under this Order shall be paid by the Council in addition to the payments provided for by this Order.

Increase reduction or discontinuance of payments to sinking fund.

Art. XXI.—(1.) If it appears to the Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose Provided that if it appears to the Local Government Board that any such increase is necessary the Council shall increase the payments to such extent as the Board may direct.

(2.) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(3.) If in the opinion of the Local Government Board the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such an extent as the Board approve.

(4.) If in the opinion of the Local Government Board the amount in any sinking fund at any time together with the accumulations thereon (in the case of an accumulating sinking fund) will probably be sufficient to repay the loan in respect of which it is formed within the prescribed period the Council may with the consent of the Board discontinue the equal annual payments to such sinking fund until the Board otherwise direct.

Surplus of sinking fund.

(5.) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes as the Council with the consent of the Local Government Board may determine.

Power to re-borrow.

Art. XXII. The Council shall except as herein-after provided have power to re-borrow for the purpose of paying off any moneys borrowed or re-borrowed under this Order which have not been repaid and are intended to be forthwith repaid or in respect of any moneys which have been repaid by the temporary application of funds at the disposal of the Council within twelve months before the re-borrowing and which at the time of the repayment it was intended to re-borrow:

Provided that the Council shall not have power to re-borrow for the purpose of paying off any moneys repaid by instalments or annual payments or by means of a sinking fund or out of moneys derived from the sale of land or out of any capital moneys properly applicable to the purpose of such repayment other than moneys borrowed for that purpose:

Provided also that any moneys re-borrowed shall be deemed to form the same loan as the moneys for the repayment of which the re-borrowing has been made and shall be repaid within the prescribed period.

Application of borrowed moneys.

Art. XXIII. All moneys from time to time borrowed or re-borrowed under this Order shall be applied by the Council only for the purposes for which the same are respectively authorised to be borrowed or re-borrowed excepting that moneys which may have been borrowed or re-borrowed in excess of the amount required shall be applied in such manner as the Council with the approval of the Local Government Board determine and all money received by the Council under this Order either as purchase money of lands sold or for equality of exchange or as consideration for a lease shall be applied to works or objects on which capital may properly be expended when the Local Government Board have sanctioned the application of the same to those purposes or shall be applied according as the Council may determine towards the reduction of the debt owing by the Council or towards the increase of the sinking fund set apart under this Order Provided that it shall not be in any way incumbent on any mortgagee to see to the application of any moneys so borrowed or re-borrowed nor shall the mortgagee be responsible for any misapplication thereof.

Receiver.

Art. XXIV.—(1.) Subject to the provisions of this Article any mortgagee of the Council in respect of a mortgage under this Order may enforce the payment of arrears of interest or of principal or of principal and interest by the appointment of a receiver.

(2.) The application for the appointment of a receiver shall be made to the High Court and the Court if it thinks fit may appoint a receiver on such terms as it thinks fit and may at any time discharge the receiver and otherwise exercise full jurisdiction over him:

Provided that no such application shall be entertained unless the amount of arrears due to the applicant or in the case of a joint application by two or more mortgagees to such applicants collectively be not less than five hundred pounds in the whole.

Return as to provision for repayment of debt.

Art. XXV.—(1.) The clerk to the Council shall within twenty-one days after the Thirty-first day of March in each year if during the twelve months next preceding the said Thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Order or in respect of any money raised thereunder and at any other time when the Local Government Board may require such a return to be made transmit to the Board a return in such form as may from time to time be prescribed by the Board and if required by the Board verified by statutory declaration of such

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clerk showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of his failing to make such return such clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of mandamus to be obtained by the Board out of the High Court.

(2.) If it appears to the Local Government Board by that return or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by this Order or by the Board in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes other than those authorised the Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default has been made shall be paid or applied as in such order mentioned and any such order shall be enforceable by writ of mandamus to be obtained by the Board out of the High Court.

Borrowing powers to be in addition to those in Public Health Act.

Art. XXVI. The powers of borrowing and re-borrowing conferred by this Order shall be deemed to be distinct from and in addition to the powers of borrowing and re-borrowing conferred on the Council by the Public Health Act 1875.

Separate accounts.

Art. XXVII. The Council shall keep separate capital and revenue accounts of all receipts credits payments liabilities and transactions in and about the execution of this Order and in relation to or on account of the gas undertaking hereby authorised which accounts shall be distinct from the other accounts of the Council and shall be called respectively "the gas capital account" and "the gas revenue account."

Application of gas revenue.

Art. XXVIII. All moneys from time to time received by the Council by way of revenue under this Order shall be applied for the following purposes:—

In payment of the gas establishment charges (that is to say) of the expenses properly chargeable to revenue of establishing conducting managing and maintaining the gasworks and works connected therewith;

In payment of the interest on the moneys borrowed or re-borrowed for the purposes of this Order;

In providing for the discharge of any moneys borrowed or re-borrowed for the purposes of this Order in accordance with the provisions of this Order or if such money was borrowed thereunder of the Local Loans Act 1875;

In setting apart if the Council think fit a yearly sum not exceeding ten pounds per centum of such revenue for the purpose of forming a reserve fund to provide for the expenses attendant upon or occasioned by any sudden accident to the said gasworks and works connected therewith or any other extraordinary expenditure authorised by this Order Provided that such reserve fund shall be accumulated by way of compound interest by investment in the manner specified in subdivision (3) of Article XX. of this Order as to the sinking fund until it amounts according to the market price of such investments to the sum of five hundred pounds and that whenever the reserve fund amounts according to the market price of such investments to the sum of five hundred pounds the income therefrom shall be applied in the same manner as money received by the Council by way of revenue under this Order;

In payment if the Council think fit of the expenses of executing any permanent works authorised by this Order;

The residue (if any) of such revenue shall be carried to the credit of the district fund but no part of such revenue shall be carried to the credit of the district fund when the price of gas to private consumers exceeds four shillings and sixpence per one thousand cubic feet.

Charges of carrying Order into execution.

Art. XXIX. The Council shall not defray any of the charges and expenses of carrying this Order into execution other than payments required to be made in respect of money borrowed on mortgage of the district fund and general district rate out of that fund or rate when the price of gas to private consumers is less than five shillings and sixpence per one thousand cubic feet.

Inquiries and expenses.

Art. XXX. Where the Local Government Board cause any local inquiry to be held with reference to any of the purposes of this Order the costs incurred by the Board in relation to such inquiry (including such reasonable sum not exceeding three guineas a day as the Board may determine for the services of any inspector or officer of the Board engaged in such inquiry) shall be paid by the Council and the Board may certify the amount of the costs so incurred and any sum so certified and directed by the Board to be paid by the Council shall be a debt due to the Crown from the Council.

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The SCHEDULE above referred to.

All that piece or parcel of land on which the existing gasworks of the Company are erected situate in the District and bounded on the south by the London Tilbury and Southend Railway and containing three acres three roods and thirty perches or thereabouts being No. 73 on the 1·2500 Ordnance Survey (Second Edition 1897).

Given under the Seal of Office of the Local Government Board this Twenty-second day of April One thousand nine hundred and one.

(L.S.)

WALTER H. LONG President.
S. B. PROVIS Secretary.

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