CHAPTER xxix.

An Act to authorise the transfer of the Undertaking of the Longton Gas Company to the Corporation of Longton. A.D. 1877.

[11th June 1877.]

WHEREAS the Longton Gas Company (in this Act called "the Company") were incorporated by that name by "The Longton Gas Act, 1866," and were thereby authorised to supply, and have for many years past supplied, Longton and other neighbouring places in the county of Stafford with gas: 29 & 30 Vict. c. cxxv.

And whereas the moneys which the Company have power to raise consist of £40,000 of share capital and £10,000 which they are authorised to borrow:

And whereas the whole of the said £40,000 has been subscribed for and fully paid up, and upon one half of such capital a dividend not exceeding £10 per centum per annum, and upon the remaining half a dividend not exceeding £7 per centum per annum, may be paid out of the profits of the Company:

And whereas the Company have borrowed and now owe £3,150:

And whereas by "The Longton Gas Act, 1875," the limits of supply fixed by the Act of 1866 were extended, and that Act was in other respects amended: 38 & 39 Vict. c. xxii.

And whereas the Company and the mayor, aldermen, and burgesses of the borough of Longton (in this Act called "the Corporation") have agreed for the transfer of the Company's undertaking, property, and rights to the Corporation upon the terms and conditions after mentioned, and it is expedient that such transfer be made:

And whereas the lands upon which the Company have power to manufacture gas or residual products are described in Schedule (A.) to the Act of 1866:

And whereas it is expedient that the Corporation should be empowered after they have acquired the Company's undertaking to agree for the purchase of certain land lying immediately adjacent

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to the site of the Company's present works, with a view of extending those works:

And whereas estimates have been prepared by the Corporation showing that they will from time to time require to borrow for the purchase of the Company's undertaking, and for other the purposes of this Act, a sum of one hundred thousand pounds or thereabouts:

And whereas twenty, being a majority of the whole number of the council, at a meeting held on the 23rd day of November 1876, after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the "Staffordshire Sentinel," a local newspaper published or circulating in the borough, such notice being in addition to the ordinary notices required for summoning such meeting, resolved that the expense in relation to promoting the Bill for this Act should be charged on the district rate:

And whereas such resolution was published twice in the said "Staffordshire Sentinel" and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by twenty-three, being a majority of the whole number of the council, at a further special meeting held in pursuance of a similar notice on the 18th day of January 1877, being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough, by resolution in the manner provided by Schedule III. annexed to "The Public Health Act, 1875," for the adoption of that Act, consented to the promotion of the Bill for this Act:

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 for all purposes be cited as "The Longton Corporation Gas Act, 1877."

Certain provisions of general Acts herein named incorporated.

2. The following Acts and parts of Acts; (that is to say,)

"The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;"

The clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the Commissioners, except section 84 (moneys borrowed on security of rates to be paid off in a limited period) and section 85 (mode of paying off mortgages)

so far as they are applicable for the purposes of or not varied by or inconsistent with this Act, are incorporated with and form part of this Act: Provided always, that nothing in this Act contained shall enable the Corporation to purchase or acquire land otherwise than by agreement.

Interpretation of terms.

3. In this Act—

The term "the Municipal Corporation Acts" means the Act of the session of the fifth and sixth years of King William the Fourth, chapter 76, to provide for the regulation of municipal corporations in England and Wales, and all Acts for the time being in force amending the same, or otherwise relating to municipal corporations in England;

The term "borough fund" means the borough fund of the said borough;

The term "the Public Health Act" means "The Public Health Act, 1875;"

The term "the undertaking" means the lands, undertaking, property, and assets of the Company:

Terms to which meanings are assigned in enactments incorporated with this Act, or which have therein special meanings, have in this Act the same respective meanings; and in this Act and (for the purposes of this Act) in enactments incorporated with this Act, the term "court of competent jurisdiction" or any other like term shall have effect as if the debt or demand with respect to which it is used were a simple contract debt, and not a debt or demand created by statute; and the term "superior courts" shall include county courts in all cases where the amount of the debt or demand is within the jurisdiction for the time being of county courts.

Act to be executed by the council.

4. This Act shall be carried into execution by the Corporation acting by the council and according to the Municipal Corporation Acts, and the Acts for the time being affecting the Corporation as a municipal body and a sanitary authority respectively, and with all the rights, powers, privileges, exemptions, and authorities conferred by those Acts respectively on the Corporation, and on the council and committees of the council, and the officers, agents, and servants of the Corporation, with respect to matters provided for by or comprised in the Municipal Corporation Acts and Public Health Act respectively, and (subject to the provisions of this Act) as nearly as may be in all respects as if the powers, duties, exemptions, and property vested in, imposed on, or enjoyed by the Corporation by or under this Act were vested in, imposed on, or enjoyed by them by or under the Municipal Corporation Acts and Public Health Act respectively.

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Corporation may acquire the Company's undertaking.

5. On or before the twenty-eighth day of February one thousand eight hundred and seventy-eight, or with the consent of the Company, to be signified in writing under their common seal, on or before the first day of September of that year, the Corporation may purchase, and the Company shall, if required and upon notice by the Corporation, sell to them, all the undertaking, works, lands, properties, assets, powers, rights, privileges, and authorities of the Company at or for the sum of seventy-three thousand one hundred and fifty pounds in cash.

Effect of transfer of undertaking.

6. Upon payment of the purchase money, the undertaking of the Company, and all causes of action, suit, or proceeding belonging to them, and all their rights and all their liabilities, shall by virtue of this Act become and shall thenceforth be transferred to and vested in the Corporation, subject and according to the provisions of this Act, and thenceforth the Corporation in their own name and for their own benefit shall have and hold the undertaking, and may enforce the causes of action, suit, or proceeding (which transfer and vesting is in this Act referred to as the transfer): Provided always, that within three months from the vesting period the Corporation shall produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's printer, and duly stamped with the ad valorem stamp duty of the same amount as would have been payable if the transfer of the undertaking had been by a deed of conveyance; and if the said Corporation shall not within the said period of three months produce to the said Commissioners such copy of this Act duly stamped as aforesaid, the ad valorem stamp duty, with interest thereon at the rate of five pounds per centum per annum from the vesting period to the day of payment, shall be recoverable from the Corporation with full costs of suit, and all costs and charges attending the same.

Application of the Company's Acts to the Corporation.

7. From and after the transfer, all the rights, powers, privileges, and authorities of the Company under the special Acts relating to the Company, and all the duties and liabilities of the Company (except as aforesaid), shall be by virtue of this Act transferred to and vested in and devolve upon the Corporation, and those Acts shall be read and have effect as if the Corporation had been therein named instead of the Company, subject nevertheless and according to the provisions of this Act, and to the following exceptions and provisions; (namely,)

(1.) The provisions of "The Companies Clauses Consolidation Act, 1845," and of "The Companies Clauses Act, 1863," incorporated with the special Acts relating to the Company, shall not apply to the Corporation:

(2.) None of the provisions of those special Acts in any manner relating to the share or loan capital of the Company, or to any limitation of the amount of profit to be received by the Company or undertakers, or to the constitution, meetings, or directors of the Company, shall apply to the Corporation.

Pending actions, &c. against Company.

8. If at the time of the transfer any action, suit, or proceeding, or any cause of action, suit, or proceeding, is pending or existing against the Company, the same shall not abate or be discontinued or in anywise prejudicially affected by reason of the transfer, or of anything in this Act, but the same may be continued, prosecuted, and enforced against the Corporation as and when it might have been continued, prosecuted, and enforced against the Company if this Act had not been passed, but not further or otherwise.

Directors receipt to be good discharge.

9. The receipt in writing of three of the directors of the Company for the purchase money to be paid to them by the Corporation shall be an effectual discharge to the Corporation for the sum which in any such receipt shall be expressed or acknowledged to be received, and the Corporation shall not be obliged or concerned to see to the application or distribution of such purchase money, or of any money which may be paid by them to such directors, or be otherwise answerable or accountable for any loss, misapplication, or non-application thereof, or of any part thereof.

Power to use patented inventions.

10. From and after the completion of such purchase the Corporation may take and hold any license or authority under any letters patent to use any invention relative to the manufacture or distribution of gas, or the utilisation of the residual products arising in the manufacture of gas; but they shall not acquire by any such license or authority any right or privilege in any respect of an exclusive character.

Company to carry on their business until transfer according to the ordinary course.

11. Until the transfer the undertaking shall be carried on by the Company according to the ordinary course of their business, and they shall up to the day of transfer keep all works, plant, and apparatus forming part of such undertaking in as good a state of repair as the same are in at the time of the passing of this Act (reasonable wear and tear excepted).

Company to wind up their affairs.

12. As soon as conveniently may be after the transfer the Company shall proceed to wind up their affairs, and shall pay and distribute the purchase money, after payment thereout of all principal and interest then due in respect of the said mortgage debt of three thousand one hundred and fifty pounds, to and among the several persons and corporations who shall then be the registered

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shareholders of the Company, in proportion to their respective interests therein, or their respective executors, administrators, successors, or assigns; but it shall nevertheless be lawful for the shareholders, before such distribution, to award out of such purchase money such sums as they may think proper to the directors and officers of the Company.

Receipt of committee of shareholders to discharge Company.

13. For the purposes of such winding up, the receipt of the guardian of any shareholder being a minor, or of any committee of the estate of any shareholder in the Company being a lunatic, shall be an effectual discharge to the Company, and to the directors thereof, for so much of the purchase money as in such receipt shall be expressed to be received, and shall exonerate them from any trust or obligation affecting the shares in respect of which such money shall be paid.

Payment into court by Company.

14. Provided that when the Company are for twelve months after the period for the distribution of the purchase money unable, after diligent inquiry, to ascertain the person to whom any part thereof ought to be paid, or where any part thereof is payable to a person by or on behalf of whom an effectual receipt for the same cannot be given, the Company may pay the same into the Court of Chancery under any Act for the time being in force for the relief of trustees.

Dissolution of Company.

15. The Company, when such distribution has been effected and their affairs are wound up, shall be and are hereby dissolved.

Corporation may agree for purchase of lands specified in Schedule (A.)

16. The Corporation may, after the transfer to them of the undertaking of the Company, at any time purchase by agreement the lands specified in the Schedule (A.) to this Act, which lands are already leased to the Corporation for an unexpired term of ninety-nine years, and the Corporation may, after the transfer and such purchase as aforesaid, erect gasworks on the said lands, and manufacture thereon gas and residual products.

Power to borrow money on security of rates.

17. For the purposes of this Act, the Corporation, in addition to any moneys they have borrowed or are authorised to borrow, may from time to time, under the authority of this Act, borrow at interest, on the security of the rates, rents, and revenues derived from the gasworks and of the general district rate, and, if they think fit, of the borough rates and borough fund, such sums as they think requisite, not exceeding in the whole one hundred thousand pounds, and they may grant mortgages of the said rates, rents, and revenues and borough rates and borough funds: Provided always, that the mortgages granted by the Corporation under this Act shall be without prejudice to any mortgages granted by the Corporation

on the security of the general district rate, borough rates, or borough fund before the transfer, while the same respectively are in force: Provided also, that no more than what is required for the purchase of the undertaking of the Company and of the lands specified in the said Schedule (A.), and of defraying the costs of this Act, shall be borrowed without the previous consent of the Local Government Board.

Form of mortgages and of transfers thereof.

18. The mortgages granted by the Corporation under this Act, and the transfers thereof, may be according to the forms in the Schedule (B.) to this Act annexed, or to the like effect, or in such other form as may be agreed upon.

Power to re-borrow.

19. The Corporation may from time to time re-borrow any amount borrowed under the provisions of this Act, and from time to time paid off by them respectively, unless it be paid off by means of annual instalments or the sinking fund, and in which case, and to the extent of the amount paid off by means of annual instalments or the sinking fund, their powers of borrowing and re-borrowing shall cease.

Repayment of money borrowed when no time or place has been agreed upon.

20. If no time be fixed in the mortgage deed for the repayment of any money borrowed under this Act, the Corporation may at any time after the expiration of twelve months from the date of such deed pay off the money borrowed upon giving six months previous notice for that purpose, and every such notice shall be in writing or print, or partly in writing and partly in print, and shall be given either personally to the mortgagee, or left at his last known or usual place of abode or business, or if such mortgagee be unknown to the Corporation, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the "London Gazette."

Arrears may be enforced by appointment of a receiver.

21. The mortgagees of the Corporation under the provisions of this Act may enforce the payment of arrears of interest or of principal, or of principal and interest, due to them by the appointment of a receiver, and the amount of principal in arrear which shall authorise the appointment of a receiver shall be ten thousand pounds.

Certain restrictions not to apply.

22. The powers of borrowing money conferred by this Act shall not be restricted by any of the provisions of the Public Health Act or Municipal Acts; and in calculating the amount which the Corporation may borrow under "The Public Health Act, 1875," any sums which they may borrow under the provisions of this Act shall not be reckoned.

Application of revenue.

23. The Corporation shall keep accounts in respect of gas revenue separate from all their other accounts, and shall apply all

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money from time to time received by them in respect of their gasworks undertaking, except borrowed money, as follows; (that is to say,)

First, in payment of their costs, charges, and expenses of and incidental to the collecting and recovering of gas rents and rates, and of the borrowing of money under this Act;

Secondly, in payment of the working and establishment expenses, and cost of maintenance of their gasworks undertaking;

Thirdly, in payment of the interest on money borrowed under this Act;

Fourthly, in providing the requisite instalments or sinking fund for payment of moneys borrowed under this Act;

Fifthly, in providing a reserve fund, if they think fit, by setting aside such money as they from time to time think reasonable, and investing and accumulating the same at compound interest until the fund so formed amounts to five thousand pounds, which fund shall be applicable from time to time to answer any deficiency at any time happening in the income of the Corporation from their gas undertaking, or to meet any extraordinary claim or demand at any time arising against the Corporation in respect of that undertaking, and so that if that fund is at any time reduced it may thereafter be again restored to the sum of five thousand pounds, and so from time to time as often as such reduction happens;

And shall carry to the borough fund any balance remaining in any year, and the annual proceeds of the reserve fund when amounting to five thousand pounds.

Application of moneys borrowed.

24. All moneys from time to time borrowed by the Corporation under this Act shall be applied only to the purposes by this Act authorised, but not to any purpose for which revenue is applicable under the immediately preceding section.

As to repayment of borrowed money.

25. The repayment of any money borrowed by the Corporation under this Act shall be made by equal annual instalments of such an amount as will repay the principal and interest within a period of not exceeding seventy years from the time of borrowing, or by equal annual instalments of the principal sum borrowed, with interest on the balance from time to time owing, extending over a similar period, or by means of a sinking fund in manner hereinafter mentioned.

Application of sinking fund.

26. If a sinking fund be provided, the Corporation shall set apart and appropriate annually, from the rates and rents forming the security, a sum equal to one pound per centum on the aggregate

amount of the principal moneys which shall have been borrowed by them as a sinking fund for the repayment of those principal moneys, which sinking fund shall be from time to time invested in the name of the Corporation in any securities in which by law trust moneys may from time to time be invested, and shall be accumulated in the way of compound interest or otherwise, and the Corporation shall from time to time apply the sum so set apart in repayment of the principal sums so borrowed: Provided always, that whenever any of such principal moneys have been so paid off, the Corporation shall thenceforward, until the whole of such principal moneys have been paid off, pay into the sinking fund every year, in addition to the other sums herein-before required to be set apart and appropriated, a sum equal to the annual interest of the principal money so paid off: Provided further, that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due and outstanding, the Corporation may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto.

Annual return to Local Government Board with respect to sinking fund and annual instalments.

27. The town clerk shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund under this Act, transmit to the Local Government Board a return in such form as may be prescribed by that Board, and verified by statutory declaration if so required by them, showing the amount which has been invested for the purpose of such sinking fund, and the manner in which the accumulated interest on the fund has been applied during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and also showing the purposes to which any portion of the moneys invested for the sinking fund have been applied during the same period, and the total amount remaining invested at the end of the year; and if the Corporation repay any money borrowed under the powers of this Act by equal annual instalments, the said town clerk shall, within twenty-one days after the period in each year when such instalments become due, transmit to the Local Government Board a statement of the instalments so paid off; and in the event of any wilful default in making any such return or statement such clerk shall be liable to a penalty of not exceeding twenty pounds. If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to set apart the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund to

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any purposes other than those authorised by this Act, the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of Mandamus.

Application of sinking fund.

28. The sums set apart for the said sinking fund and the interest thereon shall be invested on Government or real securities, or in paying off mortgages granted under the provisions of this Act.

Liability to rate not to disqualify justices.

29. No person shall be incapable of acting as a justice in the execution in any respect of this Act by reason of his being interested in any contract under this Act for a supply of gas, or being liable under this Act for the payment of any rate or other money.

As to price of gas outside the one mile radius.

30. Notwithstanding anything contained in the recited Acts to the contrary, the maximum price of gas supplied by the Corporation by meter, except within the borough of Longton and within a radius of one mile from the works of the Company, shall not, from and after the first day of January one thousand eight hundred and eighty, exceed four shillings per one thousand cubic feet; and the price to be charged by the Corporation for gas supplied by them within the one mile radius shall at all times be the same as that for the time being charged within the borough.

Expenses of Act.

31. All the costs, charges, and expenses attending or incident to the preparing, applying for, and passing of this Act shall, in the first instance, be paid by the Corporation out of the borough fund of the borough, but ultimately out of moneys borrowed under the authority of this Act; and all such costs, charges, and expenses shall be taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons.

The SCHEDULES referred to in the foregoing Act. A.D. 1877.

SCHEDULE (A.)

A piece of land about three acres, three roods, and eighteen and a half perches in extent, lying on the north-easterly side of the land belonging to the Company, and bounded on the south-west by the Anchor Brook, on the north by the tramway belonging to the North Staffordshire Railway Company, on the south-east by the said tramway, and on the north-west by that portion of the Foley Road extending from the bridge crossing the Anchor Brook to the said tramway of the North Staffordshire Railway on the northern boundary of the said land.

SCHEDULE (B.)

Form of Mortgage.

"The Longton Corporation Gas Act, 1877."

Mortgage No. £

By virtue of the above-named Act, the mayor, aldermen, and burgesses of the borough of Longton in the county of Stafford, in consideration of pounds paid to the treasurer of the said borough by [*A.B.*] of for the purposes of the above-named Act, do grant to him, his executors, administrators, and assigns, the interests of the said mayor, aldermen, and burgesses in the gas rates, rents, and money to be received in respect of the gasworks of the said mayor, aldermen, and burgesses, and the general district rate of the borough (and also as a collateral security the borough rates and borough fund of the said borough), to hold until the said sum of pounds, with interest at the rate of pounds per centum per annum for the same, shall be fully paid and satisfied [and it is hereby declared that the said principal sum shall be paid on the day of at].

Given under the common seal of the mayor, aldermen, and burgesses of the borough of Longton in the county of Stafford, this day of in the year of our Lord .

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Form of Transfer of Mortgage.

"The Longton Corporation Gas Act, 1877."

I [*A.B.*] of , in consideration of pounds paid to me by [*C.D.*] of , do hereby transfer to the said [*C.D.*], his executors, administrators, and assigns, the Mortgage No. granted on the day of by the mayor, aldermen, and burgesses of the borough of Longton in the county of Stafford, under the above-named Act, for securing the sum of and interest [*or if the transfer be by endorsement* the within-written sec urity], and all my right and interest in and under the same.

As witness my hand and seal this day of .

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