ANNO TRICESIMO

VICTORIÆ REGINÆ.

Cap. xi.

An Act to enable "the *Scarborough* Gas Company" to raise a further Sum of Money; and for other Purposes. [12th *April* 1867.]

WHEREAS by "The *Scarborough* Gas Company's Act, 1851," (herein-after referred to as "the Act of 1851,") the *Scarborough* Gas Company (in this Act called "the Company"), which had been established in the Year 1834, and was at the Time of the passing of the Act of 1851 regulated by the Deed of Settlement therein recited, was incorporated, and was authorized, in addition to its then existing Share Capital of Ten thousand Pounds, to raise a further Share Capital of Ten thousand Pounds for the Purpose of better supplying with Gas the Borough of *Scarborough* (in this Act called "the Borough"), and for other the Purposes of the Company, and to borrow to the Extent of One Third of such additional Capital: And whereas by "The *Scarborough* Gas Act, 1859," (herein-after referred to as "the Act of 1859,") the Company were empowered to raise by new Shares, in addition to their then existing Capital, a further Sum of Thirty thousand Pounds, and to borrow, in addition to their then existing Mortgage Debt, further Sums not exceeding One Fourth of the Amount of the additional Capital created under that Act: And whereas the Company have raised and expended the whole of

14 & 15 Vict. c. xiv.

22 Vict. c. xxvi.

of the Share Capital authorized by the said recited Acts, and they have also borrowed and now owe on Mortgages of their Undertaking the Sum of Ten thousand eight hundred and thirty-three Pounds, being the whole of the Sums which they have Power to borrow under the said recited Acts: And whereas the Share Capital of the Company now consists of Two thousand original Shares of Ten Pounds each created under the Act of 1851, and entitled to participate in Dividends at the Rate of Ten Pounds *per Cent. per Annum*, and of One thousand Shares of Ten Pounds each, and Four thousand Half Shares of Five Pounds each, created under the Act of 1859, and entitled to participate in Dividends at the Rate of Seven Pounds Ten Shillings *per Cent. per Annum:* And whereas the Demand for Gas within the Borough is rapidly increasing, and in order to provide an increased Supply of Gas the Works and Mains of the Company must be enlarged and extended: And whereas in order to enable the Company to discharge their existing Liabilities, and to meet the Outlay necessary for the Enlargement and Extension of their existing Works and Mains, and for carrying on their said Undertaking, it is expedient that the Company be authorized to raise additional Capital, and that further Powers should be conferred on them for carrying on the Business of the Company, and that some of the Powers of the recited Acts should be altered, amended, and extended: 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 for all Purposes as "The *Scarborough* Gas Act, 1867."

Certain Provisions of 8 & 9 Vict. c. 16. and 26 & 27 Vict. c. 118. incorporated.

2. The Clauses and Provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following Matters, (that is to say,)

With respect to the Construction of the Act and of other Acts to be incorporated therewith;

With respect to the Distribution of the Capital of the Company into Shares;

With respect to the Transfer or Transmission of Shares;

With respect to the Payment of Subscriptions, and the Means of enforcing the Payment of Calls;

With respect to the Forfeiture of Shares for the Nonpayment of Calls;

With respect to the Remedies of Creditors of the Company against the Shareholders;

With

With respect to the borrowing of Money by the Company on Mortgage or Bond;

With respect to the Conversion of borrowed Money into Capital;

With respect to the Consolidation of the Shares into Stock;

With respect to the giving of Notices;

With respect to the Recovery of Damages not specially provided for, and Penalties; and

With respect to the Provision to be made for affording Access to the Special Act by all Parties interested; and Parts I., II., and III. of "The Companies Clauses Act, 1863;"

shall, so far as the same are not varied by the Provisions of this Act, be incorporated with and form Part of this Act.

Interpretation of Terms.

3. In this Act the several Words and Expressions to which Meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective Meanings, unless there be something in the Subject or Context repugnant to such Construction; and the Expression "the Company" means "the *Scarborough* Gas Company," and the Expression "the Special Act" means this Act, and the Expression "Superior Courts" or "Court of competent Jurisdiction," or any other like Expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have Effect as if the Debt or Demand with respect to which the Expression is used were a Simple Contract Debt, and not a Debt or Demand created by Statute.

Power to raise additional Capital.

4. The Company may from Time to Time, in addition to the present Capital of the Company, raise by the Creation of new Ordinary or new Preference Shares or Stock, or by either of those Modes, any further Sum or Sums of Money not exceeding in the whole the Sum of Forty thousand Pounds.

Shares not to issue until One Fifth paid up.

5. The Company shall not issue any Share created under the Authority of this Act, nor shall any Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth of the Amount of such Share shall have been paid in respect thereof.

Calls.

6. One Fifth of the Amount of a Share shall be the greatest Amount of a Call, and Three Months at least shall be the Interval between successive Calls, and Four Fifths of the Amount of a Share shall be the utmost aggregate Amount of the Calls made in any Year upon any Share.

New Shares to form Part of original Capital.

7. The Capital to be so raised by the Creation of new Shares or Stock shall be considered as Part of the general Capital of the Company, and shall, except where otherwise provided by this Act, be subject

subject to the same Provisions in all respects as if it had been Part of the original Capital of the Company.

Limit of Dividends on new Capital.

8. The Company shall not in any Year make out of their Profits any larger Dividend on the additional Share Capital of Forty thousand Pounds to be raised under the Powers of this Act than Seven Pounds in respect of every One hundred Pounds actually paid of such Capital on ordinary Shares or Stock, or Six Pounds in respect of every One hundred Pounds actually paid of such Capital on Preference Shares or Stock.

Power to sell new Shares.

9. It shall be lawful for the General Meeting at which any new Shares or Stock shall be created to direct that the whole or any Number or Amount of such new Shares or Stock shall be sold by Auction or by Tender in such Manner, in such Numbers or Amounts, and at such Times, and subject to such Conditions, as the Directors may from Time to Time think fit and determine; and the whole or any of such new Shares or Stock which shall not be sold, or shall not be directed to be sold by Auction or Tender, shall be distributed in such Manner and (subject to the Provisions of this Act) upon such Terms as the same or any other General Meeting of the Company may direct.

Sales by Auction to be advertised, and Premiums on such Sales not to be entitled to Dividend.

10. The Intention to sell any new Shares or Stock by Auction shall be duly advertised for Two successive Weeks, and any Sum of Money which shall arise from any such Sales by way of Premium shall not be considered as Profits of the Company, but shall be expended in paying the Expenses of this Act, or in extending or improving the Works of the Company, or in paying off Money borrowed or owing on Mortgage or otherwise by the Company, and shall not be considered as Part of the Capital of the Company entitled to Dividend.

Receipts on behalf of incapacitated Persons.

11. If any Money be payable to any Shareholder being a Minor, Idiot, or Lunatic, the Receipt of his Guardian or Committee, as the Case may be, shall be a sufficient Discharge to the Company for the same.

Power to borrow on Mortgage.

12. In addition to the Monies which the Company are authorized to borrow under the recited Acts, they may from Time to Time, under the Powers of this Act, when Ten thousand Pounds of the new Capital by this Act authorized has been *bonâ fide* subscribed for, issued, and accepted, and One Half thereof has been paid up, borrow on Mortgage such Sum or Sums of Money, not exceeding in the whole Two thousand five hundred Pounds, as may from Time to Time be authorized to be borrowed by Order of a General Meeting of the Company; and when new Capital to the further Amount of Ten thousand

thousand Pounds has been *bonâ fide* subscribed for, issued, and accepted, and One Half of the Amount thereof has been paid up, the Company may borrow on Mortgage such further Sum or Sums of Money not exceeding in the whole Two thousand five hundred Pounds as may from Time to Time be so authorized to be borrowed as aforesaid; and when new Capital to the further Amount of Ten thousand Pounds has been *bonâ fide* subscribed for, issued, and accepted, and One Half the Amount thereof has been paid up, the Company may borrow on Mortgage such further Sum or Sums of Money not exceeding in the whole Two thousand five hundred Pounds as may from Time to Time be authorized to be borrowed as aforesaid; and when the Remainder of the new Capital by this Act authorized has been *bonâ fide* subscribed for, issued, and accepted, and One Half thereof has been paid up, the Company may borrow on Mortgage such further Sum or Sums of Money, not exceeding in the whole Two thousand five hundred Pounds, as may from Time to Time be so authorized to be borrowed as aforesaid; and in none of the before-mentioned Cases shall any Part of the said several Sums of Two thousand five hundred Pounds be borrowed until the Company shall have proved to the Justice who is to certify under the Provisions contained in the Fortieth Section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that all the new Shares or Stock in respect of which the Power to borrow Two thousand five hundred Pounds hereby granted is then sought to be exercised have been issued and accepted, and that One Half thereof has been paid up, and that not less than One Fifth Part of the Amount of each separate Share or Sum of Stock has been paid on account thereof before or at the Time of the Issue and Acceptance thereof, and that such new Shares or Stock were issued *bonâ fide*, and are held by the Subscribers or their Assigns, and that such Subscribers or their Assigns are legally liable for the same; and upon Production to such Justice of the Books of the Company, and of such other Evidence as he shall think sufficient, he shall grant a Certificate that the Proofs aforesaid have been given, which Certificate shall be sufficient Evidence thereof.

Existing Mortgages to have Priority.

13. All Mortgages or Bonds granted by the Company before the passing of this Act, and which shall be subsisting at the Time of the passing thereof, shall during the Continuance of such Mortgages or Bonds have Priority over any Mortgages to be created by virtue of this Act.

Repealing existing Powers, and granting new Powers for the Appointment of a Receiver.

14. Section 32 of the Act of 1851, and Section 19 of the Act of 1859, authorizing Mortgagees of the Company to enforce Payment of Arrears of Interest, or of Principal and Arrears of Interest, by the Appointment of a Receiver, are hereby repealed, but without Prejudice to any Appointment heretofore made or Proceedings now pending thereunder,

under, and after the passing of this Act the Mortgagees of the Company may enforce Payment of Arrears of Interest or Principal, or Principal and Interest, due under the recited Acts and this Act, or any or either of them, by the Appointment of a Receiver; and in order to authorize the Appointment of a Receiver in respect of Principal, or Principal and Interest, the Amount owing to the Mortgagees by whom the Application for a Receiver is made shall not be less than One thousand Pounds in the whole, and Section 20 of the Act of 1859 shall apply to the Money to be received by such Receiver, and such Money shall be applied according to the respective Priorities of the Mortgagees.

Power to create Debenture Stock.

15. The Company may create and issue Debenture Stock, and may attach thereto a fixed preferential Interest, not exceeding the Sum of Five Pounds *per Centum per Annum*.

Application of Money.

16. All Money to be raised under the Provisions of this Act, whether by means of Shares or Stock, or by the Exercise of the Power of borrowing, shall be applied to the Purposes of the Undertaking by the said recited Acts and this Act authorized, and to no other Purpose.

Company may take Licences to use Patents for Improvements in Gas.

17. It shall be lawful for the Company to take and hold any Licence or Authority under Letters Patent to use any Invention relative to the Manufacture or Distribution of Gas, or the Utilization of the residual Products arising in the Manufacture of Gas: Provided always, that the Company shall not be the exclusive Holders of Patent Rights, but shall hold Patent Rights only under Licence from or under the Patentees: Provided also, that nothing in this Act shall exempt the Company from being liable to be proceeded against for any Nuisance.

Quality of Gas.

18. Section 22 of the Act of 1859 is hereby repealed, and after the passing of this Act all the Gas supplied by the Company shall be of such Quality as to produce from an Argand Burner having Fifteen Holes and a Seven-inch Chimney, and consuming Five Cubic Feet of Gas *per* Hour, a Light equal in Intensity to the Light produced by Fourteen Sperm Candles of Six in the Pound burning One hundred and twenty Grains *per* Hour, and Sections 23, 24, and 25 of the Act of 1859 shall apply to testing the illuminating Power of the Gas by this Act prescribed in the same Manner as if those Sections respectively were repeated and re-enacted in this Act in reference thereto.

Limiting Price of Gas to private Consumers.

19. Section 21 of the Act of 1859 is hereby repealed, and after the passing of this Act the maximum Price at which Gas shall be sold by Company to all Persons who shall burn the same by Meter shall not exceed the Rate of Five Shillings *per* Thousand Cubic Feet.

20. The

Price of Gas for public Lamps.

20. The Company shall supply with Gas all the present public Lamps within the Limits of the Borough of *Scarborough*, and such other public Lamps as may hereafter be provided, for so many Hours as the Local Board for the said Borough may from Time to Time require, and at a Charge not exceeding the Rate of Three Shillings and Sixpence *per* Thousand Cubic Feet for Gas so supplied to each Lamp at the Rate of Four and a Half Cubic Feet *per* Hour for the Number of Hours for which each Lamp shall be agreed to be lighted by the Company.

Meters for public Lamps.

21. The said Local Board may, at their Option, require the Company to supply Gas to all or any of the public Lamps by Meter; and in such Case the Meter, with all necessary Fittings and Fixings, shall be provided by the Company for the Board at Cost Price, but the Meters shall be under the joint Control of the Company and the Local Board.

Company to clean, light, extinguish, and repair public Lamps.

22. The Company shall, if and when required by the Local Board so to do, from Time to Time provide Lamps and Posts, and clean, light, extinguish, and keep the same in repair, and also repair the several Service Pipes, Burners, and Stopcocks connected therewith (except Meters and Fittings specially connected therewith), at a Rate not exceeding Seventeen Shillings *per* Lamp *per Annum*, payable, unless otherwise agreed between the Local Board and the Company, by Four equal quarterly Instalments in each Year.

Supply of Gas to Owners, &c. within 20 Yards of Mains.

23. The Company, at the Request of the Owner or Occupier of any House or Building within the Limits of the Act of 1851, situate within Twenty Yards of any Main of the Company, shall furnish to such Owner or Occupier a sufficient Supply of Gas for such House or Building at a Rate not exceeding the Price by this Act limited, and for such Purpose the Company shall provide and lay at their own Expense all proper and sufficient Communication, Service, and other Pipes from and communicating with the Main up to the Premises so to be supplied.

Supply of Gas to Owners, &c. beyond 20 Yards of Mains.

24. The Company, at the Request of the Owner or Occupier of any House or Building within the Limits of the Act of 1851 situate at a greater Distance than Twenty Yards from any Main of the Company, shall furnish to such Owner or Occupier a sufficient Supply of Gas for such House or Building at a Rate not exceeding the Price by this Act limited, provided that the Expense of providing and laying the additional Supply Pipe beyond Twenty Yards necessary for such Supply of Gas shall be borne and paid by the Person demanding the Supply.

25. Every

Repair of Meters.

25. Every Consumer of Gas of the Company shall at all Times at his own Expense keep every Meter belonging to him whereby any Gas of the Company is registered in proper Order, and proper and sufficient in all respects for correctly registering the Gas, in default whereof the Company may cease to supply Gas through the Meter; and the Company shall at all reasonable Times have Access to and be at liberty to take off, remove, test, inspect, and replace any Meter belonging to a Consumer, the taking off, Removal, testing, inspecting, and replacing to be done at the Expense of the Company if the Meter be found in proper Order, and proper and sufficient in all respects, but otherwise at the Expense of the Consumer.

Register of Meter to be primâ facie Evidence.

26. The Register of the Meter shall be *primâ facie* Evidence of the Quantity of Gas consumed by any Customer of the Company, and in respect of which any Rent is charged and sought to be recovered by the Company, and the Company shall, when and as they cause the Register to be inspected, leave with the Customer a Statement in Writing or Print, or partly written and partly printed, of the State of the Register on the Day of Inspection.

Notice to Company of putting up Meters.

27. Before any Consumer of Gas supplied by the Company shall connect or disconnect any Meter through which any of the Company's Gas has been or is intended to be registered he shall give to the Company Twenty-four Hours Notice in Writing of his Intention so to do, and in default thereof he shall be liable to a Penalty not exceeding Ten Pounds.

Company to give to Consumers Statement of Gas consumed.

28. Where the Company seek to obtain Payment of any Rent for Gas consumed by Meter, they shall give to the Consumer Notice in Writing of the Quantity appearing by the Register of the Meter to have been consumed, and if the Consumer do not within Fourteen Days thereafter give to the Company Notice in Writing of any Objection to the Statement, then the Statement shall be conclusive as to the Amount of Gas consumed.

In-coming Tenant not liable to pay Arrears of Gas or Meter Rent.

29. Where any Consumer of the Gas of the Company leaves the Premises where the Gas has been supplied to him without paying to the Company the Gas Rent or Meter Rent due from him, the Company shall not be entitled to require from the next Tenant of the Premises the Payment of the Arrears left unpaid by the former Tenant, unless the in-coming Tenant agreed with the former Tenant to pay or exonerate him from the Payment of the Arrears.

Power to remove Meters and Fittings.

30. It shall be lawful for the Company, after Twenty-four Hours Notice in Writing under the Hand of the Secretary of the Company to the Occupier, or if unoccupied, then to the Owner or Lessee of any Land,

Land, House, or Building in which any Pipes, Mains, Meters, or Fittings belonging to the Company are laid or fixed, and through or in which the Supply of Gas shall from any Cause, other than the Neglect or Default of the Company, be discontinued, to enter such Land, House, or Building between the Hours of Eight in the Morning and Four in the Afternoon for the Purpose of removing and to remove such Pipes, Meters, or Fittings, repairing all Damages caused by such Entry or Removal, and every such Notice shall be served by being delivered to the Person for whom it is intended, or left at his usual or last known Place of Abode: Provided that if the Owner or Lessee of any such unoccupied House or Building be unknown to the Company after due Inquiry, the Notice may be given by affixing it for Three Days on some conspicuous Part of the House or Building.

Fraudulently injuring Meters, &c.

31. If any Person shall wilfully, fraudulently, or by culpable Negligence injure or suffer to be injured any Pipes, Mains, Meters, or Fittings, or other Things connected therewith, belonging to the Company, or shall alter the Index to or remove any such Meter, or fraudulently alter any Part of such Meter or any Pipes connected therewith, or in any way fraudulently, wilfully, or knowingly prevent such Meter from duly registering the Quantity of Gas supplied, or prevent the Company from ascertaining the Quantity of Gas registered, or by any means fraudulently abstract, consume, or use the Gas of the Company, every Person so offending shall for every such Offence forfeit to the Company any Sum not exceeding Ten Pounds; and the Company may in addition thereto recover the Amount of any Damage sustained by them which shall not be satisfied by the Amount of the Penalty recovered, and may also, until the Payment of such Penalty and the Recovery of such Damage, discontinue the Supply of Gas to the Person or Company so offending, and that notwithstanding any Contract previously existing, and the Existence of artificial or irregular Means for causing such Alteration or Abstraction, when such Meter shall be under the Custody or Control of the Consumer, shall be *primâ facie* Evidence that the same has been knowingly, wilfully, and fraudulently caused by the Consumer using such Meter: Provided always, that this Enactment shall not prejudice any Right of the Company to institute any Criminal Proceedings in reference to such Offence in any Case where they shall not proceed summarily under this Act.

Saving Rights of Corporation of Scarborough.

32. Except as is by this and the recited Acts expressly provided, nothing herein contained shall take away, lessen, alter, or prejudice any of the Rights, Powers, Privileges, or Authorities now exercised or enjoyed by the Mayor, Aldermen, and Burgesses of the Borough of *Scarborough* as well in their Municipal Capacity as in their Capacity as the Local Board of Health of the said Borough.

Expenses of Act.

33. All the Costs, Charges, and Expenses of and incident to the applying for, obtaining, and passing this Act shall be paid by the Company.

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