CHAPTER lxxxvi.

An Act for conferring further powers on the Southend Gas Company. [22nd July 1904.]

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WHEREAS by the Southend Gas Act 1877 (herein-after called "the Act of 1877") the Southend Gas Company (herein-after called "the Company") were incorporated and were authorised to supply gas within the parishes of Prittlewell and Southchurch which parishes now form the municipal borough of Southend-on-Sea:

And whereas by the Southend Gas Act 1892 (in this Act called "the Act of 1892") and the Southend-on-Sea Gas Act 1898 (in this Act called "the Act of 1898") further powers were conferred upon the Company:

And whereas the following is a statement of the capital stock and loan capital of the Company:—

Capital Stock.

Act of Parliament authorising Capital Stock.	Description of Stock.	Standard Dividend per cent.	Total paid up.	Premium received.	Remaining to be issued.	Total authorised.
			£	£	£	£
Act of 1898	Original Consolidated Ordinary.	5	59,292	—	—	59,292
Act of 1898	New Ordinary -	5	90,310	9,690	—	100,000
			149,602	9,690	—	159,292

Loan Capital.

Act of Parliament authorising Loan Capital.	Description of Loan.	Rate of Interest.	Total borrowed.	Premium received.	Remaining to be borrowed.	Total authorised.
			£	£	£	£
Act of 1898	Debenture Stock -	4 per cent.	48,330	1,766	—	48,330

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And whereas the demand for gas is increasing and it is expedient to enable the Company to meet such increased demand that they should be authorised to acquire additional lands erect additional works and raise additional capital and that further powers should be conferred upon the Company as provided by this Act:

And whereas plans showing the lands which may be taken for the purposes of this Act and also books of reference to the plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of such lands which may be taken for the purposes or under the powers of this Act have been duly deposited with the clerk of the peace for the county of Essex and are herein-after respectively referred to as the deposited plans and books of reference:

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 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 (that is to say):—

Short title.

1. This Act may be cited as the Southend-on-Sea Gas Act 1904 and the Acts of 1877 1892 and 1898 and this Act may be cited together as the Southend-on-Sea Gas Acts 1877 to 1904.

Incorporation of general Acts.

2. The following Acts and parts of Acts are (subject to the provisions of and so far as applicable to the purposes of this Act) hereby incorporated with and form part of this Act (namely):—

The Lands Clauses Acts:

The Gasworks Clauses Acts 1847 and 1871 Provided that section 13 of the former Act shall be read as if the words "or any premises" were inserted after the words "private building":

The 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 consolidation of the shares into stock;

The making of dividends;

The giving of notices; and

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

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts.

Interpretation.

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:

The expression "limits of supply" means the limits within which the Company are authorised to supply gas;

The expression "the corporation" means the mayor aldermen and burgesses of the borough of Southend-on-Sea.

Power to take lands and construct gasworks.

4. Subject to the provisions of this Act the Company may enter upon take hold and use such of the lands delineated on the deposited plans and described in the deposited books of reference and described in the Schedule to this Act as they may require for the purposes of their undertaking and the Company may manufacture and store gas and residual products on the said lands Provided that the Company shall not acquire any lands over which the corporation have a right of way except with their consent.

Power to purchase lands by agreement.

5. The Company may for the purposes of their undertaking purchase take and hold (by agreement but not otherwise) in addition to the lands described in the Schedule to this Act any lands and hereditaments not exceeding in the whole ten acres which the Company may require for the purposes of their undertaking but the Company shall not create or permit a nuisance on any such lands and no lands shall be used by the Company for the purpose of manufacturing or storing gas or residual products except the lands described in the Schedules to the Acts of 1877 1892 and 1898 and to this Act respectively.

Limit of time for compulsory purchase.

6. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

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Additional capital.

7. The Company may raise additional capital not exceeding in the whole two hundred thousand pounds by the creation and issue of new ordinary stock or new preference stock or partly in one way and partly in the other but no such stock shall vest in the person accepting the same unless and until the full price of such stock including any premium obtained upon the sale thereof shall have been paid in respect thereof Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce including any premium which may be obtained on the sale thereof the sum of two hundred thousand pounds:

Provided also that not more than one half of such additional capital shall be issued as preference stock.

Except as otherwise provided new stock to be subject to same incidents as ordinary stock.

8. Except as is by this Act otherwise provided the capital in new stock created by the Company under this Act and the new stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new stock were stock in that capital The capital in new stock so created shall form part of the capital of the Company.

Dividends on new stock.

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

Provided that—

(1) In the application of the provisions of section 43 (Dividend dependent on price charged) of the Act of 1898 to any capital of the Company raised under the powers of this Act such provisions shall have effect as if the words "four shillings" were substituted for the words "four shillings and threepence":

(2) In case at any time the funds of the Company applicable to dividend shall be insufficient to pay the full amount of dividend at the authorised rate on the ordinary stock created under the Act of 1898 and on

the ordinary stock created under this Act an equal reduction shall be made in the dividend on each class of stock :

(3) The profits of the Company to be divided among the holders of preference stock forming part of the capital raised under this Act shall not exceed the rate of five pounds in respect of every one hundred pounds actually paid up of such capital.

Restriction as to votes in respect of preferential stock.

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

New stock to be offered by auction or tender.

11. Notwithstanding anything in this Act contained the Company shall when any stock created under the powers of this Act is to be issued and before offering the same to the holder of any other stock in the Company and whether the ordinary stock of the Company is at a premium or not offer the same for sale by public auction or by tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine Provided that at any such sale no single lot shall comprise more than one hundred pounds nominal value of stock and that the reserved price put upon such stock shall not be less than the nominal amount thereof and notice of the amount of such reserved price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders as the case may be and such letter may be opened after such day of auction or last day for the reception of tenders and not sooner and provided that no priority of tender shall be allowed to any holder of stock in the Company except that if any bid or offer by tender of any holder or holders of stock be the same in amount as any bid or offer made by any other person the bid or offer of such holder or holders of stock shall be accepted in preference.

Purchase money of stock sold to be paid within three months.

12. It shall be one of the conditions of any sale of stock under this Act that the full price thereof including any premium given by any purchaser at such sale shall be paid to the Company within three months after such sale.

Notice to be given as to sale of stock.

13. The intention to sell any such stock by auction or by tender shall be communicated in writing to the town clerk of Southend-on-Sea and to the secretary of the committee of the

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London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the limits of supply.

Disposal of stock not sold by auction or tender.

14. When any stock created under the powers of this Act has been offered for sale by auction or tender and not sold the same may be disposed of by the directors at a price not less than the reserved price put upon the same for the purpose of sale by auction or tender or may be offered at such reserved price to the holders of ordinary stock of the Company in manner provided by the Companies Clauses Act 1863 Provided always that any stock not so disposed of or so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender in the manner and subject to the provisions of this Act with respect to the sale of stock created under the powers of this Act except that the reserved price put upon such stock may upon such second sale if the directors of the Company think fit be less than the nominal amount thereof and any stock not then sold may be disposed of by the directors or offered to the holders of ordinary stock or stock at not less than the last-mentioned reserved price and so from time to time until the whole of such stock is sold.

Application of premium arising on issue of stock.

15. Any sum of money which shall arise from the issue of any such stock by way of premium after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the works of the Company or in paying off money borrowed or owing on mortgage or debenture stock by the Company and shall not be considered as part of the capital of the Company entitled to dividend Provided that all such sums shall be deemed to be part of the paid-up capital of the Company for the purpose of determining the powers of the Company to raise money by borrowing and the amounts they may place to the insurance and renewal funds.

Power to borrow in respect of additional capital.

16. The Company may subject to the provisions of this Act borrow on mortgage of the undertaking any sum or sums not exceeding in the whole one third part of the amount of the additional capital by this Act authorised to be raised and at the time actually issued but no part thereof shall be borrowed until the whole of the stock at the time issued together with the premium (if any) realised on the sale thereof shall have been

fully paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that such stock has been issued and it and the premium (if any) have been fully paid up and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Debenture stock.

17. The Company may create and issue debenture stock subject to the provisions of section 42 of the Act of 1892 Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture stock &c. to be disposed of by auction or tender.

18. The provisions of this Act with respect to disposing of shares or stock by auction or tender and to the application of any money arising by way of premium shall mutatis mutandis apply to debenture stock and to any mortgages granted by the Company under this Act.

Priority of mortgages and debenture stock over other debts.

19. All money raised or to be raised by the Company on mortgage or debenture stock under the provisions of any former Act relating to the Company or under this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or pari passu with the interest or dividend on their mortgages or debenture stock.

Arrears may be enforced by appointment of a receiver.

20. Section 37 of the Act of 1898 is hereby repealed but without prejudice to any appointment heretofore made or to any proceedings pending at the passing of this Act The mortgagees of the undertaking 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 five thousand pounds in the whole.

Application of moneys.

21. All moneys raised under this Act whether by ordinary stock preference stock debenture stock or borrowing shall be

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applied for the purposes of this Act and for the general purposes of the Company being in all cases purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

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

Alteration of qualification of directors.

23. Section 45 of the Act of 1877 is hereby repealed and from and after the first day of January one thousand nine hundred and seven the qualification of a director of the Company shall be the possession in his own right of one thousand pounds nominal value of ordinary stock.

Notice of candidature for office of director.

24. From and after the passing of this Act except in the case of a director retiring by rotation and offering himself or being proposed for re-election or except for the purpose of supplying occasional vacancies no proprietor shall be capable of being elected a director of the Company in place either of a director retiring by rotation or of a director dying refusing to act or ceasing to be qualified or being disqualified to act unless notice in writing that such proprietor intends to offer himself or will be proposed for the office of director shall have been given to the secretary of the Company or left at the office of the Company twenty-eight days at least before the day of election.

Directors may determine remuneration of secretary.

25. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary of the Company.

Auditors.

26. Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 from and after the first day of January one thousand nine hundred and seven the prescribed number of auditors shall be two of whom one shall be a chartered accountant who need not be a holder of stock in the capital of the Company and the other shall be a holder of not less than one hundred pounds in paid-up ordinary stock but nothing contained in this section shall prejudice or affect the provisions of section 50 (As to audit of accounts of the Company) of the Act of 1898.

Renewals.

27. The directors of the Company may in each half year if they think fit appropriate out of the revenue of the Company and as part of the expenditure on revenue account any sum not exceeding an amount equal to one half per centum on the paid-up capital for the time being of the Company to be called "the

renewal fund" to provide for the renewal of their gasworks mains and pipes and may from time to time appropriate as occasion may require any portion of such fund to such purposes.

Such fund shall be invested in any securities in which trustees are for the time being authorised to invest money and the dividends and interest arising from such securities shall also be invested in the same or like securities in order that the same may accumulate at compound interest until the fund so formed amounts to a sum equal to one tenth of the paid-up capital for the time being of the Company:

Provided that when and so often as the said fund shall reach such sum the interest thereon shall be carried to the credit of the fund available for dividend Provided also that if such fund be at any time reduced below such sum it may thereafter be made up to that sum and so from time to time as often as such reduction shall happen.

Power to erect houses for workmen and other buildings.

28. The Company may on any lands for the time being belonging to them erect maintain and let dwelling-houses for persons in their employ and may also on any of such lands erect maintain and let offices shops showrooms and other similar buildings.

Power to sell and lease lands.

29. The Company may sell and dispose of or may let on lease for such period as they think fit any lands for the time being belonging to them and which may not at the time be required for the purposes of their undertaking and any such disposal or lease may be for such consideration and subject to such reservations stipulations and conditions as the Company think fit And notwithstanding anything in the Gasworks Clauses Act 1871 contained the provisions of sections 128 to 132 of the Lands Clauses Consolidation Act 1845 shall not apply to any lands sold or disposed of by the Company under the powers of this section.

Charges for gas supplied by means of prepayment meters.

30.—(1) The Company may charge for any gas supplied through a prepayment meter a not greater charge rate or rent than for gas supplied to private consumers through any other kind of meter or by any other method of supply.

(2) The Company shall not charge for the hire of any prepayment meter and fittings to be used therewith any sum other than a sum of money calculated according to the quantity of gas supplied through such prepayment meter and the maximum sum to be so charged shall be at the rate of eightpence per thousand cubic feet supplied in manner aforesaid such sum to include the

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hire of meter and the fittings used therewith or at the rate of one shilling per one thousand cubic feet including cooker.

The said charge shall include the providing letting fixing repairing and maintenance of the meter fittings and cooker and the cost of collection and other costs incurred by the Company in connection with the meter fittings and cooker.

(3) The maximum charge for the hire of a prepayment meter without fittings and cooker shall be at the rate of fourpence per one thousand cubic feet.

(4) For the purposes of this section the expression "prepayment meter" means any meter or appliance by which the quantity of gas supplied is regulated according to the amount of money prepaid therefor.

Power to require use of anti-fluctuators for gas engines.

31. Every consumer of gas supplied by the Company who uses a gas engine shall if required to do so by the Company use an effective anti-fluctuator of approved make or pattern and shall at all times at his own expense keep such anti-fluctuator in proper repair and in default of his so using or keeping such anti-fluctuator in proper repair the Company may cease to supply gas to such consumer The Company shall have access to and be at liberty to take off remove test inspect and replace any such anti-fluctuator at all reasonable times such taking off removal testing inspecting and replacing to be done at the expense of the Company if the anti-fluctuator be found in proper order but otherwise at the expense of such consumer.

Power to supply gas fittings &c. for heating and other purposes and fittings not to be subject to distress.

32.—(1) The Company may sell let for hire and otherwise deal in fix repair and remove but shall not manufacture engines dynamos stoves ranges pipes fittings and other apparatus appliances and things (in this section called "fittings") for lighting for motive power for the warming and ventilating of houses and buildings for the cooking of food and for all other purposes for which gas can or may be used and may provide all materials and do all work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon between the Company and the persons to or for whom the fittings are sold let fixed repaired or removed.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons

in whose possession the same may be Provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Company as the actual owners thereof.

Gas consumers to give notice to Company before removing.

33. Twenty-four hours' notice in writing shall be given to the Company by every gas consumer before he shall quit any premises supplied with gas by meter by the Company and in default of such notice the consumer so quitting shall be liable to pay to the Company the money accruing due in respect of the supply to such premises up to the next usual period for ascertaining the register of the meter on such premises or the date from which any subsequent occupier of such premises shall require the Company to supply gas to such premises whichever shall first occur Notice of the effect of this enactment shall be endorsed upon every demand note for gas rent payable to the Company.

Notice of discontinuance.

34. A notice to the Company from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Company Notice of the effect of this enactment shall be endorsed upon every demand note for gas rent payable to the Company.

Power to refuse to supply persons in debt for other premises.

35. If a person requiring a supply of gas from the Company has previously quitted premises at which gas was supplied to him by the Company without paying to them all gas or meter rent due from him to the Company they may refuse to furnish to him a supply of gas until he pays the same.

No penalty in case of unavoidable cause.

36. No penalty shall be incurred by the Company for neglect or refusal to give a supply of gas in accordance with the provisions of the Southend-on-Sea Gas Acts 1877 to 1904 or for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which the court having cognisance of the case are of opinion that such neglect refusal insufficiency defect or excess was caused by circumstances beyond the control of the Company Provided that the want of sufficient funds shall not be held to be a circumstance beyond the control of the Company.

Discounts.

37. The Company may if they think fit allow discounts or rebates not exceeding in any case ten per centum to consumers of gas in consideration of prompt payment of gas rents or of large

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consumption or in respect of gas supplied by contract or for motive power upon such scale and subject to such conditions and regulations as may be prescribed by special contract in writing between the Company and any of such consumers Provided that such discounts or rebates shall be of equal amount under like circumstances to all consumers Provided also that notice of the effect of this section shall be endorsed on every demand note for gas rent.

Costs of Act.

38. 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.

The SCHEDULE referred to in the foregoing Act.

A piece of land in the parish of Prittlewell belonging to and in the possession of the Company bounded on the south in part by the rear of premises 8 to 19 Scott's Villas and in part by Scott's Villas Road on the east by the Company's existing gasworks and by land belonging or reputed to belong to Messrs. Baker and Wiseman on the north partly by the Company's works and partly by the rear of premises fronting northwards to Burnaby Road and on the west by premises 7 to 19 Scott's Villas.

A piece of land in the parishes of Southchurch and Prittlewell or one of them belonging or reputed to belong to Messrs. Dowsett and Ingram bounded on the east by Victoria Road on the north by a road called Northumberland Avenue on the south in part by the Company's works and in the remaining part by the east pumping station belonging to and in the possession of the Southend-on-Sea Corporation and on the west in part by the Beaumont Building Estate belonging or reputed to belong to Joseph Constant and on the remaining part by the said pumping station and comprising an area of three acres and thirty perches or thereabouts.

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