CHAPTER lxii.

An Act for conferring further powers on the Torquay Gas Company. A.D. 1894.

[3rd July 1894.]

WHEREAS by the Torquay Gas Act 1860 (in this Act called "the Act of 1860") the Torquay Gas Company (in this Act called "the Company") were incorporated for the purpose of constructing gasworks and making and supplying gas in the parishes of Tormoham (which includes the town of Torquay) Saint Mary Church and Cockington all in the county of Devon and empowered to raise a share capital of twenty-five thousand pounds and to borrow on mortgage not exceeding in the whole six thousand two hundred and fifty pounds:

And whereas by the Torquay Gas Act 1865 (in this Act called "the Act of 1865") the Company were authorised to construct additional gasworks and to raise by shares further capital not exceeding twenty-three thousand two hundred pounds in addition to the sum of twenty-one thousand eight hundred pounds (part of the capital authorised by the Act of 1860) which the Company had then raised and to borrow not exceeding in the whole five thousand pounds:

And whereas by the Torquay Gas Act 1878 (in this Act called "the Act of 1878") the Company were authorised to raise further share capital not exceeding thirty thousand pounds and to borrow not exceeding seven thousand five hundred pounds:

And whereas the Company have exercised the borrowing powers conferred upon them by the Act of 1860 and the Act of 1865 and have converted such loan capital into shares which now form part of the share capital of the Company:

And whereas the Company have not exercised their borrowing powers under the Act of 1878 and the Company have at present no mortgage or bond debt:

And whereas the Company have raised and expended upon their undertaking nearly the whole of their share capital:

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And whereas the demand for gas within the limits of the Act of 1860 is increasing and the existing works of the Company and the lands whereon the same are erected are insufficient to enable the Company to meet such demand and it is expedient that the Company be authorised to acquire additional lands and on such additional lands and upon lands now belonging to them to erect additional works for the manufacture and storage of gas:

And whereas it is expedient that the Company should have power to raise further share and loan capital for the purposes of their undertaking:

And whereas it is expedient that further powers be conferred on the Company as in this Act provided:

And whereas plans showing the lands which may be taken for the purposes and under the powers of this Act and a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerk of the peace for the county of Devon and are herein-after respectively referred to as the deposited plans and book 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 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:—

Short title.

1. This Act may be cited as the Torquay Gas Act 1894.

Incorporation of Acts.

2. The following Acts and parts of Acts are except where expressly varied by this Act incorporated with and form part of this Act (that is to say) The Lands Clauses Acts and the Gasworks Clauses Act 1847 the Gasworks Clauses Act 1871 the provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (namely) The distribution of the capital of the Company into shares the transfer or transmission of shares the payment of subscriptions and the means of enforcing the payment of calls the forfeiture of shares for non-payment of calls the remedies of creditors of the Company against the shareholders the borrowing of money by the Company on mortgage or bond the conversion of the borrowed money into capital the consolidation of 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 and Part I. (relating to the 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 the Companies Clauses Act 1869. A.D. 1894.

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 "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall for the purposes of this Act be read and have effect as if the debt or demand in respect of which the expression is used were a simple contract debt and not a debt or demand created by statute.

Errors and omissions in plans and book of reference may be corrected by two justices.

4. If there be any omission mis-statement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days clear notice to the owners lessees and occupiers of the lands in question may apply to two justices for the county of Devon for the correction thereof and if it appear to the justices that the omission mis-statement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is mis-stated or wrongly described and such certificate shall be deposited with the clerk of the peace for the county of Devon and such certificate shall be kept by such clerk of the peace with the other documents to which the same relates and thereupon the deposited plans and book of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

Power to take lands.

5. Subject to the provisions of this Act the Company may enter upon take and use the lands shown on the deposited plans and described in the deposited book of reference and firstly secondly thirdly and fourthly described in the schedule to this Act and hold and use the same for the purposes of their undertaking.

Limit of time for compulsory purchase of lands.

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 date of the passing of this Act.

Power to construct new gasworks,

7. Subject to the provisions of this Act the Company may on the lands described in the schedule to this Act make erect maintain or continue alter or improve enlarge extend renew and discontinue gas-works retort-houses retorts gas-holders reservoirs purifiers stores sewers drains mains pipes meters machinery and other apparatus

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works and conveniences for the manufacture conversion utilization storage and supply of gas coke tar pitch and other residual products obtained in the manufacture of gas and matters producible therefrom and on the said lands may make store and convert gas and all other residual products as aforesaid and manufacture purchase hire sell supply and deal in coke tar pitch lime ammoniacal liquor sulphate of ammonia oil and other residual products arising or resulting therefrom or used in the manufacture of gas and also meters tubes pipes burners fittings apparatus and other articles and things in any way connected with the supply of gas and may erect fit up maintain and let offices and houses and dwellings for their officers and servants.

Power to purchase lands by agreement.

8. The Company may from time to time 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 and to any lands they have acquired or are authorised to acquire under the Acts of 1860 1865 and 1878 any lands and hereditaments not exceeding in the whole five acres which the Company may from time to time require for the purposes of their works and 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 gas or residual products except the lands on which their present works are situate and the lands described in the schedule to this Act.

Gas not to be manufactured except on lands scheduled.

Prescribed period for sale of lands.

9. In the case of lands acquired by the Company by compulsion the prescribed period within the meaning of section one hundred and twenty-seven of the Lands Clauses Consolidation Act 1845 shall be ten years from the passing of this Act.

Restriction on taking houses of labouring class.

10. The Company shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially 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 purpose of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others 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 such persons who may be residing with them.

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Power to supply gas fittings engines and other apparatus.

11. The Company may from time to time manufacture purchase or otherwise provide let for hire sell or otherwise deal in and fix set up alter repair maintain remove and refix burners tubes and stoves or ranges for heating or cooking by means of gas and any other materials or fittings for the use of gas for domestic or other purposes and also engines and machines for domestic manufacturing industrial or other purposes whatever to be worked by means of gas for the production of motive power and any materials or fittings to be used in connection therewith and may take charges and receive remuneration in respect thereof.

Power to supply gas for cooking heating and other purposes.

12. The Company may on the request of the owner or occupier of any premises within their limits supply gas for heating cooking motive-power warming ventilating and other purposes and for the particular requirements of any trade industry manufacture or business and may do all things needful therefor on such terms and conditions in all respects as may be agreed on between the Company and the person to whom such supply shall be given.

Power to Company to raise additional capital.

13. The Company may from time to time subject to the provisions of this Act and to the provisions of Part II. of the Companies Clauses Act 1863 raise additional capital not exceeding in the whole fifty thousand pounds by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any such share or stock vest in the person or corporation accepting the same unless and until the full price of such share or 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 premiums which may be obtained on the sale thereof) the sum of fifty thousand pounds.

Privileges &c. of holders of new capital.

14. The additional capital from time to time raised by the Company under this Act by shares or stock shall be part of the general capital of the Company and save as otherwise provided in respect of such capital by the provisions of this Act the holders of shares or stock in such additional capital shall be entitled to the like rights of voting and other rights qualifications and privileges in proportion to the amount of their shares or stock from time to time paid up and be subject to the like provisions forfeitures and liabilities as the holders of shares or stock in the present capital of the Company.

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Limit of profit on new capital.

15. The Company shall not in any one year make out of their profits any larger dividend on the additional share capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

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

16. In case in any year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of dividend at the prescribed maximum rate on each class of ordinary shares or stock in the capital of the Company a proportionate deduction shall be made in the dividend of each class.

New shares or stock to be offered by auction or tender.

17. Notwithstanding anything in this Act contained the Company shall when any shares or stock in the additional capital created under the powers of this Act are to be issued and before offering the same to the holder of any other shares or stock in the Company and whether the ordinary shares or ordinary stock of the Company are or 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 shares or stock and that the reserved price put upon such shares or 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 bid or tender shall be allowed to any holder of shares or stock in the Company except that if any bid or offer by tender of any holder or holders of shares or stock in the Company 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 shares or stock shall be accepted in preference.

Purchase money of capital sold by auction to be paid within three months.

18. It shall be one of the conditions of any sale of shares or stock under this Act that the full price thereof including any premium given by any purchaser at such sale or in the event of any second auction or tender as herein-after provided then the whole price or purchase-money thereof shall be paid to the Company within three months after such sale.

Notice to be given as to sale &c. of shares or stock.

19. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the town clerk of the

borough of Torquay and to the secretary of the committee of the 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 in Torquay.

Shares or stock not sold by auction or tender to be offered to shareholders.

20. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserved price put upon the same respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in the manner provided by the Companies Clauses Act 1863 Provided always that any shares or stock 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 shares and stock created under the powers of this Act but at a lower reserve price than the price put upon the same at the preceding offer thereof for sale by auction or tender and any stock or shares not then sold shall be again offered to the holders of ordinary shares or ordinary stock at the last-mentioned reserved price and so from time to time until the whole of such shares or stock is sold.

Application of premium arising on issue of shares or stock.

21. Any sum of money which shall arise from the issue of any such shares or 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 by the Company and shall not be considered as part of the capital of the Company entitled to dividend Provided that in any case where a power to raise money by borrowing is made proportionate to the paid-up capital the premiums received from the sale of shares or stock by auction or tender as herein-before provided shall for such purpose be reckoned as part of the paid-up capital.

Power to borrow on mortgage.

22. In addition to the moneys which the Company are authorised to borrow under the recited Acts they may from time to time borrow on mortgage in respect of the additional capital of fifty thousand pounds by this Act authorised to be raised by shares or stock any sums not exceeding in the whole the sum of twelve thousand five hundred pounds and the Company may as each portion of ten thousand pounds of such additional capital to be from time to time issued has been issued and accepted and one-half the amount of such portion has been paid up borrow on mortgage in respect of each

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such portion of ten thousand pounds any sum or sums not exceeding in the whole two thousand five hundred pounds but in no case shall any part of any of the said respective portions of two thousand five hundred pounds be borrowed until shares for so much of the said portion as is to be raised by shares are issued and accepted and one-half of such portion is paid up and the Company shall 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 shares for the whole of so much of the portion in respect of which the borrowing powers are so sought to be exercised as is to be raised by shares have been issued and accepted and that one-half of so much of such portion has been paid up and that not less than one-fifth of the amount of each of such shares has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of the said portion as is to be raised by stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be was issued and accepted and paid up bonâ fide and are or is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and also that so far as such portion is raised by shares that such persons or corporations their executors administrators successors or 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 proof aforesaid has been given which certificate shall be sufficient evidence thereof.

As to appointment of receiver.

23. Section 17 (As to appointment of receiver) of the Act of 1878 is hereby repealed but without prejudice to any (if any) appointment heretofore made or to any (if any) proceedings pending at the passing of this Act and in lieu thereof mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver the amount owing to the mortgagees by whom the application for a receiver is made shall not be less in the whole than two thousand pounds.

As to conversion of borrowed money into capital.

24. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the issue of debenture stock or any part thereof by the creation of shares or stock instead of borrowing or to convert into share capital any money borrowed under the provisions of this Act unless in either case all dividends upon the shares or stock whether ordinary or preferential

are limited to a rate not exceeding five pounds per centum per annum.

Debenture stock.

25. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under any previous Act or this or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Priority of mortgages and debenture stock over other debts.

26. All money to be raised by the Company under the provisions of this Act on mortgage or by the issue of debenture stock 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 in pursuance of any Act relating 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.

Application of moneys.

27. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be 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.

Agreements with sanitary authorities and others.

28. The Company may from time to time enter into and carry into effect agreements with any sanitary authority local board or other local authority corporation or person within the limits of the Company for or with respect to a supply of gas by the Company in bulk or otherwise to such sanitary authority local board local authority corporation or person and any matters incidental thereto Provided that gas so supplied shall be used only within the limits of the Company.

Maximum price of gas.

29. Section 31 of the Act of 1860 (Limit of price for gas) is hereby repealed and from and after the passing of this Act the price to be charged by the Company for gas supplied to persons

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who shall burn the same by meter shall not exceed four shillings and three pence for one thousand cubic feet.

As to testing place.

30. Sections 33 34 and 35 of the Act of 1860 and sections 25 and 26 of the Act of 1878 are hereby repealed and for the purposes of the application of the Gasworks Clauses Act 1871 to the undertaking of the Company the following provisions shall have effect (that is to say) :—

(1.) The prescribed burner shall be the burner known as "Sugg's London Argand No. 1" having 24 holes each hole of 0·045 of an inch in diameter and with a glass chimney six inches long and $1\frac{7}{8}$ of an inch in diameter;

(2.) The prescribed testing place shall be the office of the Company in Torquay;

(3.) In order to enable the Company to be represented at any testing for purity and illuminating power the Corporation of Torquay or any other local authority having jurisdiction within the limits of supply of the Company shall give to the Company at such office such notice in writing of their intention to make such testings as shall be reasonably sufficient to enable the Company to be represented by their engineer or agent.

Discounts.

31. 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 consumption upon such scale and subject to such conditions and regulations as may be prescribed by special contract in writing between the Company and such consumers Provided that such discounts or rebates shall be of equal amount under like circumstances to all consumers.

Company to receive notice from consumer of gas for discontinuance.

32. A notice to the Company from a consumer for a discontinuance of a supply of gas shall not be of any effect unless it be in writing and be left at or sent by prepaid letter to the principal office for the time being of the Company.

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

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

Power to lay pipes against buildings.

34. The Company with the consent of the owner and occupier of any building may lay any pipe branch or any other necessary apparatus from any main or branch pipe into through or against such building for the purpose of lighting it and may with the like

consent provide and set up any apparatus necessary for securing to such building a proper and complete supply of gas and for measuring and ascertaining the extent of such supply and may from time to time with the like consent repair replace alter discontinue and remove any such pipe branch or apparatus.

Representation of the Company in bankruptcy.

35. In proceedings under any bankruptcy or assignment for the benefit of creditors or deed of composition or arrangement the secretary of the Company or any director or any person appointed by two directors by writing under their hands may represent the Company and shall be competent to act for the Company.

Auditors need not be shareholders.

36. It shall not be necessary for the auditors appointed by the Company to hold shares in the capital of the Company.

Expenses of Act.

37. All the costs charges and expenses of incident and preliminary to the preparing and applying for obtaining and passing of this Act and otherwise in relation thereto shall be paid by the Company.

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The SCHEDULE referred to in the foregoing Act.

Firstly. Certain land in the parish of Cockington in the county of Devon containing one acre one rood and fifteen perches or thereabouts now in the occupation of the Company and used by them for storage purposes and bounded on the north-east by land belonging or reputed to belong to Richard Mallock Esq. on the north-west by the road leading from Torquay to Paignton on the south-west by an occupation road leading from the last-mentioned road to the beach or sea shore and on the south-east by the sidings of the Newton Abbot and Kingswear branch of the Great Western Railway Company.

Secondly. A triangular piece of land situate in the parish of Cockington aforesaid containing four perches or thereabouts now in the occupation of the Company and bounded on the north-eastern side by the occupation road herein-before referred to and on the south-eastern and south-western sides by the existing gasworks of the Company.

Thirdly. Certain land in the said parish of Cockington aforesaid containing one rood and thirty-eight perches or thereabouts belonging or reputed to belong to the said Richard Mallock and now in the occupation of Haywood Teague and bounded on the north-west by the road leading from Torquay to Paignton on the south-west by the land firstly herein-before described and on the south-east partly by the Newton Abbot and Kingswear branch of the Great Western Railway Company and partly by the sidings of that branch.

Fourthly. A strip of land situate in the parish of Cockington aforesaid containing twenty-three perches or thereabouts being so much of the occupation road herein-before referred to as lies between the sidings of the Newton Abbot and Kingswear branch of the Great Western Railway Company and the aforesaid road leading from Torquay to Paignton and bounded on the north-eastern side by the piece of land firstly herein-before described and on the south-western side in part by the land secondly herein-before described and in part by the existing gasworks of the Company over which strip of land the Company have a right of way.

Fifthly. Certain land in the parish of Paignton in the county of Devon containing two acres two roods and ten perches or thereabouts belonging or reputed to belong to the Company and in the occupation of William Abbott and bounded on the north-east by a certain stream or rivulet dividing the said parish of Paignton from the said parish of Cockington on the south-east partly by the road leading from Torquay to Paignton and partly by land belonging or reputed to belong to the Company on the south-west side by land belonging or reputed to belong to Robert Butland and the Reverend William John Distin and in the occupation of William Henry Minhinnick and Maria Endacott and on the north-west side by land belonging or reputed to belong to the Ecclesiastical Commissioners and in the occupation of Thomas Andrews.

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