CHAPTER clx.

An Act to empower the West Ham Gas Company to raise additional capital for the purposes of their undertaking and to make other provisions in respect thereof. A.D. 1889.

[12th August 1889.]

WHEREAS the West Ham Gas Company (hereinafter referred to as the Company) were incorporated by an Act passed in the year one thousand eight hundred and fifty-six (19 and 20 Vict. cap. lix hereinafter referred to as the Act of 1856) and authorised to supply gas in West Ham East Ham Stratford Leyton Walthamstow and other places within certain limits in the suburbs and vicinity thereof and parts adjacent all in the county of Essex and for such purposes to raise by the creation and issue of sixteen thousand shares of five pounds each a sum of eighty thousand pounds and to borrow on the mortgage of their undertaking or on bond a sum of nineteen thousand nine hundred and ninety-nine pounds and by a further Act passed in the year one thousand eight hundred and sixty-nine (32 and 33 Vict. cap. xxii. hereinafter referred to as the Act of 1869) the Company were authorised to raise by shares a further sum of one hundred and fifty thousand pounds and to borrow on mortgage or debenture stock a further sum of thirty-seven thousand five hundred pounds together making a total sum of two hundred and thirty thousand pounds by shares and fifty-seven thousand four hundred and ninety-nine pounds by borrowing: 19 & 20 Vict. c. lix. 32 & 33 Vict. c. xxii.

And whereas the Company had as shown in their last half-yearly account made up to the thirtieth day of June one thousand eight hundred and eighty-eight created and issued forty-six thousand shares of five pounds each the full amount authorised by the Acts aforesaid and called up the sum of two hundred and fifteen thousand pounds leaving a further sum to be called up of fifteen thousand pounds by shares and had exercised their powers of borrowing to the full extent authorised by means of mortgages and debenture stock which mortgages are now in course of being redeemed by a further creation of debenture stock:

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And whereas it is provided by the 11th section of the Act of 1869 that notwithstanding anything contained in the 29th section of the Act of 1856 as to the prescribed rate of profits to be divided among the shareholders the rate of dividend when the maximum charge for gas supplied by the Company is four shillings and sixpence per thousand cubic feet shall be seven pounds ten shillings per centum per annum but when the charge is reduced to three shillings and ninepence the rate of dividend may be ten pounds per centum per annum and the Company have by various reductions from time to time reduced the price below three shillings and ninepence and are now paying dividends of ten per cent. upon all their capital and it is expedient that the aforesaid provisions with respect to the maximum charge for gas should be amended and the price of gas supplied by the Company should be reduced and regulated as hereinafter provided:

And whereas the population and trade in the district of the Company has very largely increased of late years and is still increasing the consumption of gas within the said district having more than doubled itself within the last seven years it is necessary for the Company to enlarge their works and extend their mains and to expend large sums of money year by year for such purposes it is expedient that the Company should be authorised to raise further capital in the manner and on the terms hereinafter provided and that facilities should be granted to the Company for raising the capital required on the most advantageous terms for the public:

And whereas the powers of the Company in respect of raising capital on loan and of creating a reserve fund and other matters might be amended with advantage to the public and the Company it is expedient that provisions be made as hereinafter provided for these and other purposes:

And whereas the purposes 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 for all purposes be cited as the West Ham Gas Act 1889.

Incorporation of Acts.

2. The provisions of the Companies Clauses Consolidation Act 1845 incorporated in the Act of 1869 and Part 1 (cancellation and surrender of shares) Part 2 (additional capital) and Part 3 (debenture stock) of the Companies Clauses Act 1863 as amended by the

Companies Clauses Act 1869 shall so far as they are consistent with and applicable to the provisions of this Act be incorporated with and form part of this Act and the Gasworks Clauses Act 1871 shall subject to the provisions of this Act extend and apply to the undertaking of the Company as if the same had been authorised by this Act and shall control and supersede such of the provisions of the Act of 1856 and the Act of 1869 as are at variance or inconsistent therewith.

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:

The expression "the corporation" means the mayor aldermen and burgesses of the borough of West Ham;

The expression "the borough" means the borough of West Ham;

The expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act in whole or in part incorporated with this Act shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute;

The expression "the referees" shall mean the gas referees appointed by the Board of Trade under the City of London Gas Act 1868 for testing the gas supplied within the metropolis.

Power to Company to raise additional capital.

4. The Company in addition to the original capital of two hundred and thirty thousand pounds which they are at present authorised to raise may from time to time raise additional capital not exceeding in the whole two hundred and fifty thousand pounds by the creation and issue 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 nominal amount of such share or stock together with any premium obtained upon the sale thereof as hereinafter provided 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 two hundred and fifty

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thousand pounds Provided also that the Company shall not create and issue within the year following the passing of this Act any greater nominal amount of capital than shall be sufficient to produce in manner aforesaid fifty thousand pounds or within any subsequent year twenty-five thousand pounds.

If authorised capital for any year be not raised the amount may be made up.

5. If in any year or years the Company shall not have created and issued capital to the full amount hereinbefore prescribed in relation to such year or years they may in any subsequent year create and issue in addition to the amount prescribed for such year such a nominal amount of capital as shall be sufficient together with the amount then raised to produce in manner aforesaid in respect of the year next after the passing of this Act fifty thousand pounds and every subsequent year the sum of twenty-five thousand pounds.

Standard dividend.

6. Subject to the provisions of this Act the Company shall not in any one year except as hereinafter provided pay out of their profits any larger dividend upon the original capital of two hundred and thirty thousand pounds than ten pounds in respect of every one hundred pounds actually paid up nor than seven pounds in respect of every one hundred pounds of the additional capital to be raised under the powers of this Act as shall be issued as ordinary capital which dividends are hereinafter referred to as the standard dividends or than six pounds in respect of every one hundred pounds actually paid up of such additional capital as may be issued as preference capital.

New shares to be offered for sale by auction or tender.

7. Notwithstanding anything in this Act contained the Company shall when any ordinary or preference shares or stock 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 tender shall be allowed to any holder of shares or stock in the Company.

Purchase money to be paid within three months.

8. It shall be one of the conditions of any sale of shares or stock under this Act that the whole nominal amount thereof together with any premium given by any purchaser at such sale shall be paid to the Company within three months after the day of such sale.

As to notice to be given as to sale &c. of shares.

9. 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 West Ham and to the clerk of every local authority having jurisdiction within the district of the Company 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 within the district of supply.

Shares not sold by auction or by tender to be offered to share-holders.

10. 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 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.

Premium on sales of stock by auction.

Premiums to be considered paid-up capital.

11. Any sum of money which shall arise by way of premium from the sale of any such shares or stock by auction or by tender after deducting therefrom the expenses of and incident to such sale 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 by the Company or in any other way to which capital may be legally applied but shall not be considered as part of the capital of the Company entitled to dividend Provided that in all cases where the powers to raise money by borrowing or to create an insurance fund are made proportionate to the paid-up capital the premiums received from the sale of shares by auction or tender as hereinbefore provided shall for such purposes be reckoned as part of the paid-up capital.

Standard price and sliding scale.

12. The standard price to be charged by the Company for gas supplied by them shall be three shillings per thousand cubic feet Provided that the Company may increase or reduce the price charged by them for gas above or below the standard price subject to a

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reduction or increase in the dividend payable by the Company on the ordinary share capital or stock as follows :—

In respect of any year during which the price charged by the Company shall have been one penny or more above the standard price the dividend payable by the Company shall in respect of each penny by which the standard price shall have been increased be reduced below the standard rate of dividend by five shillings on every hundred pounds of ordinary paid-up capital and so in proportion for any fraction of one hundred pounds :

And in respect of any year during which the price charged by the Company shall have been one penny or more below the standard price the dividend payable by the Company may in respect of each penny by which the standard price shall have been reduced be increased above the standard rate by five shillings on every hundred pounds of ordinary paid-up capital and so in proportion for any fraction of one hundred pounds.

Insurance fund.

13. For the purpose of creating an insurance fund to meet any extraordinary claim demand or charge which may at any time arise against or fall upon the Company from accident strikes or other circumstances which in the opinion of a justice due care and management could not have prevented the Company shall set apart one half (amounting to the sum of eleven thousand five hundred pounds) of the reserve fund of the Company existing at the passing of this Act and may also from time to time set apart out of the profits of the undertaking any sum or sums not exceeding in the aggregate in any one year one per cent. upon the paid-up capital of the Company and all sums so set apart shall be invested in Government or other securities and the dividends and interest arising from such investments or 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-twentieth of the capital as aforesaid and if such fund be at any time reduced it may thereafter be again made up to the said sum and so from time to time as often as such reduction shall happen Provided that when and so often as the said fund shall reach the one-twentieth part of the said capital the interest thereon shall be carried to the credit of the fund available for dividend Provided also that resort may from time to time be had to the insurance fund to meet any extraordinary claim or demand although such fund may not at the time have reached or may have been reduced below the full amount of one-twentieth as aforesaid.

Balance of profit to be transferred

14. If the clear profits of the undertaking of the Company in any half-year amount to a larger sum than is sufficient to provide for

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the insurance fund and pay the dividends authorised by this Act on the ordinary shares or stock of the Company and the dividends on the preference capital (if any) the excess shall be carried to the credit of the divisible profits of such undertaking for the next following half-year Provided that whenever such excess shall exceed the sum necessary to provide for a reduction of one penny per thousand cubic feet in the price of the gas sold in the preceding half-year as shown by the accounts of the Company and for the increased dividend which the Company would be authorised to pay in respect of such reduction of price the Company shall reduce the price to be charged for gas in the next half-year by one penny per one thousand cubic feet.

to next account.

Local authority or any two consumers may apply to court of quarter sessions for a reduction of price.

15. The court of quarter sessions may on the petition of any local authority or any two consumers of gas within the Company's limits of supply nominate and appoint some accountant or other competent person not being a proprietor of any gasworks to examine and ascertain at the expense of the Company (the amount of such expense to be determined by the said court) the actual profits of the Company for such period as the court may determine and to make report thereof to the said court at the then present or some following session and the said court may examine any witnesses on oath touching the truth of the accounts of the Company and the matters therein referred to and if it thereupon appear to the said court that the provisions of the last preceding section of this Act have not been complied with the court may order the Company to make such a reduction in the price to be charged for gas supplied by them as in the judgment of the said court shall be proper but so that such price when reduced shall ensure to the Company a profit sufficient to pay dividends at the rates authorised by this Act:

Provided always that if in the case of any petition so presented it appear to the said court that there was not sufficient ground for presenting the same the said court may if they think fit order the petitioners to pay the whole or any part of the costs of or incident to such petition (the amount thereof to be determined by the said court) and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this Act or the Acts incorporated therewith.

Reserve fund.

16. The Company may at their own expense create a reserve fund and for such purpose may in any year set apart out of their profits applicable to the payment of dividends such sum as they shall think fit and all sums so set apart by the Company together with one half (amounting to eleven thousand five hundred pounds) of the reserve fund of the Company existing at the passing of this Act shall form a reserve fund under the provisions of this Act which

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shall be applicable amongst other things to the payment of dividend in any year in which the clear profits of the Company shall be insufficient to enable the Company in such year to pay the rate of dividend authorised by this Act on the ordinary shares or stock of the Company Provided that the said fund shall not be applied in paying any higher dividend than is authorised by this Act and no sum shall in any year be carried to any reserve fund except as herein provided.

Power to borrow to extent of one-third of capital paid up.

17. The Company may in addition to the respective sums of nineteen thousand nine hundred and ninety-nine pounds and thirty-seven thousand five hundred pounds authorised to be borrowed by the said Acts of 1856 and 1869 from time to time subject to the provisions of this Act borrow any sum or sums not exceeding in the whole one hundred and two thousand five hundred and one pounds but the aggregate amount of borrowed money shall not exceed one-third part of the amount of the capital of the Company at the time actually issued by shares or stock and no part of such sum shall be borrowed until the whole of the shares or 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 40th section of the Companies Clauses Consolidation Act 1845 before he so certifies that such shares and stock and 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.

Power to create debenture stock.

18. The Company may create and issue debenture stock subject to the provisions of Part 3 of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages created and issued or granted by the Company at any time after the passing of this Act under this Act 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 such 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.

Debenture stock to have priority over other debts.

19. All money to be borrowed by the Company on 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 the Company after the passing of this Act.

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Limit of interest on borrowed moneys.

20. The Company shall not without the consent of the Board of Trade pay interest at a higher rate than four pounds per centum per annum in respect of any moneys raised by the creation and issue of debenture stock under the authority of this Act.

Prohibition against borrowing except as debenture stock.

21. Notwithstanding anything contained in the said Acts of 1856 and 1869 in relation to the power of borrowing money on mortgage or bond the Company shall not under the powers of this Act or of the said Acts of 1856 and 1869 raise any money by borrowing except as debenture stock and all such debenture stock shall be sold by public auction or tender in the manner and subject to the regulations by this Act prescribed with respect to the sale of shares or stock by auction or tender and any premium obtained on such sale shall be applied as premium obtained on the sale of shares is under the provisions of this Act to be applied.

Company may supply fittings.

22. The Company may supply sell let on hire and fix gas meters stoves engines burners fittings and any other machinery and apparatus that may be required to facilitate the use of gas for lighting domestic trading or any other purpose to which gas can be applied.

Pressure of gas.

23. All gas supplied by the Company shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six-tenths of an inch and from sunset to midnight not less than eight-tenths of an inch in height and any gas examiner appointed under the Gasworks Clauses Act 1871 may subject to the terms of his appointment from time to time test the pressure at which the gas is supplied in the mode for the time being prescribed by the referees for testing the gas supplied within the metropolis and may for that purpose open any street road passage or place vested in or under the control of any local or road authority and the provisions of the Gasworks Clauses Act 1871 with reference to testing of gas and to penalties shall except as expressly varied by this Act apply to such testing of pressure.

Testing place.

24. The Company shall at their own expense before the thirty-first day of December one thousand eight hundred and ninety provide within the borough and at a distance of not less than one thousand yards from the gasworks of the Company on the northerly side of the High Street Stratford but subject to the approval of the corporation a testing place and shall provide and fix therein all the necessary apparatus and machinery for testing the purity illuminating power and pressure of the gas supplied by the Company in accordance with the provisions of this Act and such testing place shall be deemed to be the testing place required to be provided in conformity with the provisions of the Gasworks Clauses Act 1871.

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Mode of testing.

25. The apparatus to be used for testing the gas and the mode of making the tests (except that the testings for illuminating power shall be made at intervals of not less than half an hour each) shall be such as shall from time to time be prescribed by the referees for testing the gas supplied within the metropolis Such apparatus shall be from time to time provided by the Company at their own expense.

As to time of testing.

26. Any gas examiner may test the purity and pressure of the gas supplied by the Company at any time of the day or night and the illuminating power between the hours of 5 o'clock and 11 o'clock in the afternoon.

Illuminating power.

27. The prescribed number of candles shall be sixteen.

Purity of gas.

28. From and after the thirty-first day of December one thousand eight hundred and ninety the gas supplied by the Company shall be wholly free from sulphuretted hydrogen and shall not contain more than four grains of ammonia or more than twenty-five grains of sulphur in any one hundred cubic feet of gas.

No penalty in case of unavoidable cause.

29. No penalty shall be incurred by the Company for insufficiency of pressure defect of illuminating power or for excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was caused by an unavoidable cause or accident.

Gas for public lamps.

30. The Company shall upon being required by the corporation or any other local authority within their limits supply the public lamps in the respective districts by meter and for that purpose shall provide and fix at their own expense the meters and fittings connected therewith and keep the same in proper order for correctly registering the gas so supplied and shall if required by the corporation or other local authority within the said limits let the same to the corporation or other local authority at a rental not exceeding ten per cent. per annum on the net cost thereof and if at any time within seven years after such meters have been provided and fixed the corporation or other local authority require the Company to remove them the corporation or other local authority shall forthwith pay to the Company the difference between the original cost of such meters fittings and fixing and the aggregate amount paid to the Company by the corporation or other local authority as rental for the use of the same up to that date and thereupon they shall become the property of the corporation or other local authority.

Company to pay interest on money

31. If any person is required by the Company to give to them security for the payment of the supply of gas or the price or hire of

gas fittings meters stoves engines or other apparatus or articles the Company shall pay interest after the rate of five pounds per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands.

deposited as security for gas meter &c.

32. If any difference shall arise between the corporation and the Company as to the position or suitability of the testing place or as to whether such testing place and the apparatus therein are properly maintained by the Company the same shall be determined by an arbitrator to be appointed on the application of either party by the Board of Trade and the decision of such arbitrator shall be final and binding and the costs of such reference shall be in his discretion.

Differences between corporation and the Company.

33. 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.

Expenses of Act.

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