CHAP. xxii.

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An Act to enable the West Ham Gas Company to increase their Capital, and for other purposes with respect to the same Company. [24th June 1869.]

WHEREAS by an Act passed in the year one thousand eight hundred and fifty-six the West Ham Gas Company, which had been previously constituted by a deed of settlement, were incorporated, and were authorized (section twenty-five) to raise a capital in shares of eighty thousand pounds, and after certain contingencies, which have happened, to borrow (section thirty-two), on mortgage of their undertaking, twenty thousand pounds, and by the twenty-ninth section of the same Act the dividends of the company were limited to seven and a half per centum per annum on their paid-up capital: 19 & 20 Vict. c. lix.

And whereas by virtue of the said powers the company have raised the said capital, with the exception of the sum of five thousand pounds, which has not been called up, and they now owe the sum of nine thousand five hundred pounds upon mortgage, and that sum and all the money raised by them has been expended upon their undertaking:

And whereas the increasing population of the district supplied by the company makes it essential for them to extend their works from time to time, and their capital is insufficient for that purpose:

And whereas the limitation of dividend prescribed by the said Act of 1856 will render it difficult for them to raise such capital, and it is expedient that the provisions herein-after contained should be made, whereby the rate of dividend should be dependent upon the price of gas supplied by the company:

And whereas it is expedient that the provisions herein-after contained should be made with respect to the internal management of the company and with respect to their supply of gas and the extension of their mains, and that in these and other respects the provisions of the said Act of 1856 should be varied and extended:

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And whereas parts of the land of the company on which their works are built, and comprising about two acres two roods and three perches, are held on two several leases for long terms, and it is expedient that the company should be enabled to purchase the fee simple and reversion of the said lands:

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 Company's Act, 1869."

8 & 9 Vict. c. 18. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," excepting so much thereof as relates to the purchase of lands otherwise than by agreement; and the provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the several matters following; (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 nonpayment of calls;

The remedies of the creditors of the company against the shareholders;

The consolidation of the shares into stock;

The general meetings of the company and the exercise of the right of voting by the shareholders;

The making of dividends;

The borrowing of money by the company on mortgage or bond;

The conversion of the borrowed money into capital;

The giving of notices and the provisions for affording access to the special Act;

and Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. The several words and expressions to which, by the Acts in whole or in part incorporated with this Act, meanings are assigned

have in this Act the same respective meanings, unless there be in the subject or context something repugnant to the construction:

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; and the words "share" and "shareholders" respectively include, where necessary, stock and stockholders:

The term "candles" means such candles as are described in section twenty-five of "The Metropolis Gas Act, 1860," namely, sperm candles of six to the pound, each burning one hundred and twenty grains an hour:

The expression "the Act of 1856" means the first-mentioned Act incorporating the company.

Power to company to raise additional money by creation of shares or stock.

4. The company from time to time may raise, in addition to their present capital, by the creation and issue of new shares, such sums of money as they shall think necessary, not exceeding one hundred and fifty thousand pounds; and the company may create and issue such shares either wholly or partially as ordinary, or wholly or partially as preferential shares, as they may think fit.

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.

Power to borrow in respect of additional capital of 150,000*l.*

6. In addition to the sum of twenty thousand pounds which the directors of the company are by the said Act of 1856 authorized to borrow, the company may from time to time borrow on mortgage additional sums not exceeding in the whole thirty-seven thousand five hundred pounds: Provided, that as every fourth part of such additional capital of one hundred and fifty thousand pounds is created and subscribed for, issued and accepted, and one half thereof has been paid up, the company may borrow a sum or sums not exceeding in the whole one fourth part of the said total sum of thirty-seven thousand five hundred pounds; but no part of any of the said several sums shall be borrowed until 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 the portion of the said additional capital of one hundred and fifty thousand pounds in respect of which the borrowing powers are sought to be exercised has been issued and accepted,

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and that one half of such portion has been paid up, and that not less than one fifth part of the amount of each separate share in such portion of the capital has been paid on account thereof, before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by persons or their assigns, and that such persons 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 proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Debenture stock.

7. The company may create and issue debenture stock, and may attach thereto such fixed and perpetual preferential interest, not exceeding six pounds per centum per annum, as they shall think fit.

Arrears may be enforced by appointment of a receiver.

8. The 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 authorize the appointment of a receiver in respect of principal, or of principal and interest, 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.

Existing mortgages to have priority.

9. Provided always, that all mortgages or bonds granted or issued 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.

Application of monies raised by company.

10. All monies which the company raise under this Act, whether by shares or by debenture stock, or by borrowing, shall be applied for the general purposes of the company, and for no other purpose.

As to rate of dividends.

11. Notwithstanding anything contained in the 29th section of the said Act of 1856, from and after the passing of this Act the prescribed rate of the profits to be divided amongst the shareholders in any year upon the ordinary shares of the company shall be as follows; (that is to say,)

The rate of seven pounds ten shillings in the hundred by the year on the amount from time to time paid up on such shares, so long as the company's maximum charge for gas within their district to ordinary private consumers shall be four shillings and sixpence per one thousand cubic feet;

The rate of eight pounds in the hundred by the year, so long as such maximum charge shall not exceed four shillings and threepence per one thousand cubic feet;

The rate of nine pounds in the hundred by the year, so long as such maximum charge shall not exceed four shillings per one thousand cubic feet; and

The rate of ten pounds in the hundred by the year, so long as such maximum charge shall not exceed three shillings and ninepence per one thousand cubic feet.

Providing for payments to incapacitated persons.

12. If any money be payable by the company to a shareholder being a minor, idiot, or lunatic, the receipt of his guardian or committee shall be a sufficient discharge to the company for the same.

Qualification of a director.

13. In all future elections of directors the qualification of a director of the company shall be the possession by him in his own right of one hundred shares in the company, instead of the possession of fifty shares as prescribed in the 35th section of the said Act of 1856.

As to auditors.

14. In all future elections of auditors the qualification of an auditor shall be the possession in his own right of ten shares at least in the company.

As to proposing directors and auditors.

15. Previously to any general meeting for the election of directors or auditors the shareholder intending to become a candidate or to propose any other shareholder as a candidate for any such office shall give to the secretary notice in writing under his hand, by leaving the same at the company's office at any time not less than twenty-one days before such general meeting, signifying such intention to become or to propose a candidate for any such office; and in the latter case giving the name, residence, and calling of the person intended to be proposed, together with the consent in writing of the person so intended to be proposed to accept such office if appointed, and in default of so doing the person so intending to become a candidate or intended to be proposed as a candidate shall not be eligible.

As to quorum of general meetings.

16. If the prescribed quorum of fifteen shareholders be not present, in person or by proxy, at any ordinary or extraordinary general meeting of the company the meeting may nevertheless proceed to business if one twentieth part of the paid-up capital of the company shall be represented at such meeting.

As to annual accounts.

17. The annual accounts required by the 38th section of "The Gasworks Clauses Act, 1847," to be transmitted to the clerk of the

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peace shall be so transmitted on or before the thirty-first day of March in each year, instead of the thirty-first day of January as prescribed by the said Act.

Illuminating power.

18. Notwithstanding anything contained in the 53rd section of the said Act of 1856, the gas supplied by the company from the thirty-first day of December one thousand eight hundred and sixty-nine shall (subject to the provisions of this Act) be of such an illuminating power as to produce from the prescribed burner consuming five cubic feet per hour a light equal in intensity to the light produced from fourteen candles; and the 55th section of the said Act of 1856 shall be read as if the illuminating power prescribed by that Act had been the illuminating power herein prescribed.

Maximum price of gas.

19. The maximum price chargeable by the company for gas shall (subject to the provisions of this Act) be, from and after the thirty-first day of December one thousand eight hundred and sixty-nine, at the rate of four shillings and sixpence per thousand cubic feet.

As to price for public lights.

20. The company shall not charge a higher price by the one thousand cubic feet for gas supplied to any local authority than the lowest rate by the one thousand cubic feet from time to time charged by them otherwise than by special contract in writing to any private consumers in the district supplied by the company.

As to mains in private roads.

21. When any pipe in the nature of a main for the supply of gas shall have been laid by the company with the consent of the owner of the land, or upon the requisition of any public body, in any street or way not yet dedicated to the public, by means of which main gas shall have been supplied for a period of twelve months, such pipe shall be taken as lawfully laid under the powers of the said Act of 1856, or of the Acts incorporated therewith.

Deposit in case of dispute.

22. Where a dispute arises between the company and one of their customers respecting any payment to be made to the company, if the customer deposits with the company by way of security the amount claimed by them, it shall not be lawful for the company to discontinue the supply of gas to the customer by reason of the dispute.

As to settling of disputes concerning meters.

23. In the event of any dispute between the company and the consumer as to the correct registry of any meter in use on the consumer's premises the said meter shall be tested by an inspector who shall have been appointed for the metropolis in manner prescribed by "The Sale of Gas Act, 1859," with respect to the metropolis; and,

if the meter is found to be correct within the meaning of the said Act, the expense of such testing, as well as the removing and refixing the meter, shall be paid by the party requiring that the meter should be tested; but if such meter is found to be incorrect then a proper allowance shall be made, either in addition to or a reduction from any account in dispute; and all the expenses shall be paid by the party who may have profited by the incorrectness of the meter.

Notice to company of connecting or disconnecting meters.

24. Before any person connects or disconnects, or allows any other person to connect or disconnect, any meter by which any of the company's gas is intended to be or has been registered he shall give not less than twenty-four hours notice in writing to the company of his intention so to do; and if any person fails so to do every person so offending shall for every such offence forfeit not exceeding five pounds.

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, and in default thereof 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; and if any consumer refuses or prevents the access to and the removal of such meter for the purpose aforesaid, it shall be lawful for the company to cut off the supply of gas without further notice.

Power to remove meters and fittings.

26. The company, after forty-eight hours notice in writing under the hand of the secretary or some other officer of the company, to the occupier, or, if unoccupied, then to the owner or lessee of any land, house, or building in which any pipe, meter, or fitting belonging to the company is laid or fixed, and through or in which the supply of gas is from any cause other than the fault of the company discontinued, may enter the premises within the hours of nine in the morning and four in the afternoon, for the purpose of removing, and may remove, the pipes, meters, or fittings, repairing all damages caused by the 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, or if the person or his address be not known to the company after due inquiry, then by being affixed on some conspicuous part of the premises.

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Fraudulently injuring meters.

27. Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any meter or fitting of the company, or fraudulently alters or suffers to be altered the index to any meter, or prevents any meter from duly registering the quantity of gas supplied, shall, without prejudice to any other right or remedy for the protection of the company or the punishment of the offender, for every such offence forfeit and pay to the company not exceeding five pounds; and the company may, in addition thereto, recover the amount of any damages by them sustained; and, notwithstanding any contract with respect to the supply of gas to the person so offending, the company may also discontinue the supply of gas to the person so offending; and the existence of artificial means for the alteration or prevention of the due registration of the meter shall, when the meter is in the custody or control of the consumer, be primâ facie evidence that the same has been fraudulently, knowingly, and wilfully caused by the consumer using the meter.

For preventing frauds and waste of gas.

28. If and whenever any person supplied with gas by the company wilfully does or causes or suffers to be done anything in contravention of any of the provisions of this Act, or wilfully fails to do anything which under this Act ought to be done for the prevention of the waste, misuse, or undue consumption of the company's gas, the company may cut off or stop any pipe by or through which gas is supplied to him, and cease to supply him with gas so long as the cause of damage or injury remains or is not remedied, and also may recover in any court of competent jurisdiction from every person so offending the amount of all loss, damage, or injury which the company sustain by reason of any such thing or failure, and the remedies of the company under this section shall be in addition to their other remedies in that behalf.

Recovery of charges for gas.

29. In case any person who has been supplied with gas by the company, or who is liable under this Act or the Act of 1856 to any payment in respect of a supply of gas or the use or repair of any meter, fails for fourteen days after demand thereof by the company, their agent or collector, to pay the amount due in respect of the supply or of the meter, any justice, on application by the company, shall issue his summons to the person, requiring him to appear at a time and place named therein, and then and there to show cause why the sum so demanded should not be paid; and if on the appearance of the person, or in default of appearance after proof of the service of the summons, either personally or at his last known place of abode or of business, sufficient cause be not shown to the con-

trary, the justice shall issue his warrant of distress for the seizure and sale of the goods and chattels of the person for the recovery of the amount proved before the justice to be due from the person, with such costs to be settled by the justice, and including the costs of cutting off the gas, if the same be cut off by the company, as the justice thinks just and reasonable.

Recovery of sums due to company.

30. Whenever any person fails to pay any gas rent or meter rent, or sum due and payable by him to the company, the company may recover the same in any court of competent jurisdiction for the recovery of debts of like amount, and the remedies of the company under this section shall be in addition to their other remedies for the recovery of the rent or sum.

Register of meter to be primâ facie evidence of gas consumed.

31. The register of the meter shall be primâ facie evidence of the quantity of gas consumed by any customer of the company.

Penalties on company not cumulative.

32. Penalties imposed on the company for one and the same offence by several Acts of Parliament are not cumulative, and for that purpose this Act and the Acts incorporated therewith are several Acts.

Liability to gas rent not to disqualify justices.

33. Except as is by this Act otherwise expressly provided, no justice or judge of any court shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any gas rent or meter rent or other charge under this Act.

Provisions of Act of 1856 varied.

34. When the enactments herein-before contained are inconsistent with or vary the provisions of the Act of 1856 the said provisions shall be deemed to be repealed or varied.

Purchase of lands by agreement.

35. The company may purchase by agreement the fee simple in reversion of the lands now held by them on lease as aforesaid and on which their works are built.

Expenses of Act.

36. 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.

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