CHAPTER xxvii.

An Act for incorporating the Westgate and Birchington Gas Company and conferring powers on them with reference to the construction and maintenance of works the supply of Gas and otherwise; and for other purposes. A.D. 1881.

[3rd June 1881.]

WHEREAS certain parts of the parishes of Birchington Acol Saint John the Baptist and Minster in the Isle of Thanet in the county of Kent have for some time past been supplied with gas from certain gasworks situate in the said parish of Birchington on the lands described in the schedule to this Act and belonging to Frederick Searle Parker and William Searle Parker (in this Act called "the owners") who are now supplying gas therefrom:

And whereas the demand for gas within the said parishes and places has of late years increased and is still increasing and it is expedient that better provision be made for supplying and lighting with gas the said parish of Birchington and the parts in that behalf in this Act specified of the said parishes of Saint John the Baptist Minster and Acol (all of which are herein-after referred to as the limits of this Act) as by this Act provided:

And whereas the persons herein-after named with others are willing at their own expense to undertake and provide for the supplying and lighting with gas the limits of this Act if authorised so to do and are desirous of being incorporated into a company with adequate powers for the purpose and it is expedient that they be incorporated accordingly and authorised to construct gasworks and to supply and light with gas the limits of this Act and to acquire and maintain the existing gasworks herein-before mentioned and to make and maintain new gasworks as by this Act provided and the owners have agreed to transfer their gasworks and gas undertaking to the Company on the terms and conditions in this Act appearing:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

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May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows that is to say :—

Short title.

1. This Act may be cited as the Westgate and Birchington Gas Act 1881.

Incorporation of general Acts. 8 & 9 Vict. c. 16. 26 & 27 Vict. c. 118. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 10 & 11 Vict. c. 15. 34 & 35 Vict. c. 41.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) Part III. (relating to debenture stock) of the Companies Clauses Act 1863 the Lands Clauses Consolidation Acts 1845 1860 and 1869 (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking) the Gasworks Clauses Act 1847 and the Gasworks Clauses Act 1871 are (as far as they are applicable for purposes of and are not expressly varied by or inconsistent with this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction :—

The expression "the Company" means the Company incorporated by this Act;

The expression "the Birchington Gasworks" means the lands described in the schedule to this Act and the gasworks situate thereon and all mains pipes services machinery plant tools implements meters fittings stock-in-trade books documents agreements licenses powers rights and privileges of the owners relating to or in any way connected with the said lands and gasworks or the supply of gas from such works;

The expressions "the works" "the gasworks" and "the undertaking" mean and include respectively the gasworks and works connected therewith by this Act vested in and authorised to be made and maintained by the Company and any improvement thereof which they may construct under the powers of this Act and the lands buildings estate right title property privileges effects and undertaking of the Company and every part thereof respectively;

And for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated

herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute. A.D. 1881.

Limits of Act.

4. The limits of this Act shall be the parish of Birchington and so much of the parishes of Saint John the Baptist Minster and Acol all in Isle of Thanet in the county of Kent as is situate and lies to the westward and northward of an imaginary line commencing on the sea shore at the eastern side of the northern end of the road which commences at the sea shore and passes thence in a southerly direction eastward of the Beach House Hotel crossing the Westgate Road and proceeding to the London Chatham and Dover Railway thence crossing that railway and proceeding in a direction due south for a distance of five hundred feet thence proceeding in a south-westerly direction along the southern side of Street Hill Road until it (the said imaginary line) joins the boundary between Minster detached No. 1 and the parish of Saint John the Baptist thence proceeding along that boundary southward until that boundary joins the boundary of the parish of Acol thence proceeding in a direction due west to the boundary dividing the parish of Acol from the parish of Birchington.

Incorporation of Company.

5. William James Ingram, Henry James Chapman, Cosmo William Gordon, John Edward Cranstone Leslie, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purposes herein-after mentioned and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "the Westgate and Birchington Gas Company" and by that name shall be a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

General purposes of the Company.

6. The Company shall be established for the purpose of making and maintaining the works and manufacturing gas and for supplying gas within the limits of this Act and for converting or utilising and distributing materials used in and about the manufacture of gas and residual products resulting from such manufacture and for dealing in selling and disposing of gas lime coke tar and other residual products matters and things and for carrying on the business usually carried on by gas companies and for manufacturing purchasing and hiring and supplying gas meters fittings and other apparatus and generally for carrying the powers of this Act into execution.

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Gas undertaking of owners vested in Company.

7. On the passing of this Act the Birchington Gasworks shall by virtue of this Act vest absolutely in the Company for all the estate and interest therein of the owners and each of them their and each of their heirs executors and administrators and of all persons and bodies claiming through or under them: Provided always that within three months from the date of the passing of this Act the Company shall produce to the Commissioners of Inland Revenue a copy of this Act stamped with such an ad valorem stamp duty as would be required by law to be impressed on a deed of conveyance of the Birchington Gasworks and if the Company shall not within the said period of three months produce to the said Commissioners a copy of this Act duly stamped as aforesaid the ad valorem stamp duty with interest thereon at the rate of five pounds per centum per annum from the passing of this Act to the date of payment shall be recoverable from the Company with full costs of suit and all costs and charges attending the same.

Capital.

8. The capital of the Company shall be twenty-four thousand pounds in two thousand four hundred shares of ten pounds each.

Fully paid up shares vested in the owners.

9. One thousand five hundred shares in the capital of the Company shall be deemed fully paid up and are by this Act appropriated to and vested in the owners as the consideration for the transfer of the Birchington Gasworks to the Company and the Company shall within one month after the passing of this Act issue to the owners or one of them or the survivor of them or to the executors or administrators of the survivor certificates of the proprietorship of such shares.

Shares not to be issued until one-fifth part paid up.

10. Except the shares appropriated and vested as aforesaid the Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

11. One fifth of the amount of a share shall be the greatest amount of a call and three months at least shall be the interval between successive calls and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow on mortgage.

12. The Company may from time to time borrow on mortgage any sums not exceeding in the whole six thousand pounds but no part thereof shall be borrowed until the whole capital of twenty-four thousand pounds is issued and accepted and one half thereof is 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 the whole of the capital has been issued and accepted and that one half thereof has been paid up and that except as to the shares appropriated and vested by this Act not less than one-fifth part of the amount of each separate share in such 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 the persons or corporations to whom the same was issued their executors administrators successors or assigns and 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 his certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

Conversion of borrowed money into capital.

13. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or any part thereof by the creation of shares or stock instead of borrowing or to convert into capital the amount 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.

Appointment of receiver.

14. 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. 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 six hundred pounds in the whole.

Power to create debenture stock.

15. 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 at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Priority of mortgages over other debts.

16. All money to be raised by the Company on mortgage or debenture stock under the provisions of 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:

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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 Consolidation Act 1845 or the Lands Clauses Consolidation Acts Amendment Act 1860 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 on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the Company's undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred upon the Company.

Application of moneys.

17. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied for the purposes of this Act only.

Ordinary meetings.

18. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act and the subsequent ordinary meetings of the Company shall be held yearly in the month of August or at such other stated periods as shall be appointed for that purpose by an order of a general meeting.

Scale of voting.

19. Every shareholder shall have one vote for every share held by him.

Number of directors.

20. The number of the directors shall be five but the Company may from time to time reduce the number provided the number be not less than three.

Qualification of directors.

21. The qualification of a director shall be the possession in his own right of not less than thirty shares.

Quorum.

22. The quorum of a meeting of directors shall be three until the number is reduced to three and then the quorum shall be two.

First directors.

23. William James Ingram, Henry James Chapman, Cosmo William Gordon, John Edward Cranstone Leslie and one other person to be nominated by them or the majority of them and consenting to such nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being (if qualified) eligible

Election of directors.

for re-election and at the ordinary meeting to be held in every year after the first ordinary meeting the shareholders present personally or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Auditors need not hold shares.

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

Power to erect and maintain gasworks and manufacture and store gas on lands in schedule.

25. Subject to the provisions of this Act the Company may from time to time maintain alter improve enlarge extend and renew or discontinue the existing gasworks by this Act vested in the Company upon the lands upon which the same are erected or any part thereof and which are described in the schedule to this Act and they may also on the lands described in the schedule to this Act or on any part thereof erect make maintain alter improve enlarge extend renew or discontinue retorts gasholders receivers purifiers drains sewers mains pipes meters apparatus works and conveniences for the manufacture and storing of gas and coke and other residual products obtained in the manufacture of gas and matters producible therefrom and may make and store gas and may manufacture convert store sell provide supply and deal in coke tar pitch ammoniacal liquor and all other products and residuum of any materials employed in or resulting from the manufacture of gas and matters producible therefrom and also meters fittings tubes pipes burners and other articles and things in any way connected with gasworks or with the supply of gas as they may from time to time think fit and may also from time to time erect fit up maintain and let houses cottages and dwellings for the officers and servants employed by the Company for the purposes of their undertaking.

Power to supply gas fittings &c. for heating and other purposes.

26. The Company as they from time to time think fit may manufacture purchase provide supply sell let for hire use and otherwise deal in fittings engines stoves ranges pipes and other apparatus and appliances for lighting for motive power for the warming and ventilating of houses and buildings the cooking of food and for all other purposes for which gas can or may be used. Any such letting for hire may be for such remuneration in money and on such terms with respect to the repair of articles and fittings let and for securing the safety and return to the Company of such articles

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and fittings and otherwise as may be agreed upon between the hire and the Company.

Power to take licenses.

27. Subject to the provisions of this Act the Company may (but only for the purposes of the Company within their limits of gas supply and not so as to acquire an exclusive right therein) contract for take and use any leave license or authority to work use exercise or put in practice any invention under any letters patent heretofore made or hereafter to be made granting any right or privilege of working using or vending any invention in relation to the manufacture or distribution of gas or the conversion manufacture or utilisation of the products obtained from the manufacture of gas or the materials used therein or in relation to the manufacture of meters and other fittings and apparatus in which the Company are authorised in any way to deal.

Power to purchase lands by agreement.

28. 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 within their limits of gas supply 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 no lands shall be used by the Company for the purpose of manufacturing gas or residual products except the lands described in the schedule to this Act.

Power to lay pipes against buildings.

29. 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.

Limiting the price of gas.

30. The price to be charged by the Company for gas supplied by them to persons who shall burn the same by meter shall not at any time exceed four shillings and ninepence per thousand cubic feet.

Pressure of gas.

31. All gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch and from sunset to midnight not less than eight-tenths of an inch in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer 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 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 mutatis mutandis apply to such testing of pressure and two hours previous notice shall be given to the Company of the time and place at which such testing shall be conducted. A.D. 1881.

Quality of gas.

32. The prescribed number of candles shall be fourteen.

Testing place.

33. Within one year from the passing of this Act a testing place shall be provided upon some part of the works or lands of the Company.

Burner.

34. The prescribed burner shall be Sugg's London Argand Burner Number One with a six-inch by one-and-three-quarter-inch glass chimney but if at any time and so long as the gas flame rises above the top of that glass a six-inch by two-inch chimney shall be used.

Company to pay interest on money deposited as security for gas meter &c.

35. If any person is required by the Company to give to them security for the payment of the price or rent of a meter 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.

Agreements with sanitary authorities and others.

36. The Company may from time to time enter into and carry into effect agreements with any sanitary authority local board or other local authority within the limits of this Act for or with respect to a supply of gas by the Company in bulk or otherwise to such sanitary authority local board or local authority and any matters incidental thereto and the agreements respectively may be for such times and for such remuneration and on such terms and conditions whatsoever as the contracting parties think fit.

Notice of discontinuance.

37. 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 and be left at the principal office for the time being of the Company.

Liability to gas rent &c. not to disqualify justice &c.

38. A justice or a judge of any court shall not be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any gas rent meter rent rate or charges under this Act or of his being a shareholder of the Company.

Expenses of Act.

39. 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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The SCHEDULE referred to in the foregoing Act.

GAS LANDS.

A piece or parcel of land on which the existing gasworks are erected situate in the parish of Birchington in the county of Kent and bounded on the north by the Canterbury Road on the east by a road leading from the said Canterbury Road into the village of Birchington on the south by sheds belonging or reputed to belong to Thomas Dennett and on the west partly by garden ground belonging or reputed to belong to Thomas Grey and partly by workshops and premises belonging or reputed to belong to Alvenia Wilson and being one quarter of an acre or thereabouts in extent.

LONDON: Printed by George Edward Eyre and William Spottiswoode, Printers to the Queen's most Excellent Majesty. 1881.