CHAP. cxxxvi.

An Act for better supplying Whitby and Ruswarp in the North Riding of Yorkshire with Gas. [13th July 1871.] A.D. 1871.

WHEREAS Whitby in the north riding of Yorkshire has been for some years lighted with gas by means of gasworks erected in the township of Ruswarp:

And whereas such works are now vested in the Whitby Gas Company (Limited), who have been incorporated under the Companies Acts, 1862 and 1867, and by their memorandum and articles of association have been duly registered in pursuance of those Acts:

And whereas the share capital of the Company consists of forty thousand pounds, divided into two thousand shares of twenty pounds each, the greater part of which capital has been already, and the whole thereof will be shortly, fully paid up:

And whereas the Company do not owe any money on mortgage:

And whereas the Company will be better able to carry on their undertaking if "The Gasworks Clauses Act, 1847," be extended thereto, and if further powers be conferred upon the Company:

And whereas the objects aforesaid cannot be accomplished 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; (that is to say,)

1. This Act may be cited for all purposes as "The Whitby Gas Act, 1871." Short title.

2. "The Companies Clauses Consolidation Act, 1845," Parts I., II., and III. of "The Companies Clauses Act, 1863," "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," and "The Gasworks Clauses Act, 1847," are (except where expressly varied by this Act) incorporated with Provisions of general Acts herein named incorporated.

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and form part of this Act: Provided always, that the Company shall not be authorised to purchase or take any lands except by agreement.

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 works," or "the gasworks," or "the undertaking," mean respectively and include the gasworks and works connected therewith by this Act vested in the Company, or any gasworks they may provide under the powers of this Act; the expression "the commissioners" means the commissioners for the time being acting in execution of the Whitby Improvement Act (7 William IV., chapter 10); the expression "the local authority" means the commissioners, surveyors, local board, or other body or persons who are for the time being the governing body or persons having the control of any place or district lighted with gas by the Company; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or the Acts incorporated herewith, shall 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.

Dissolution of limited company.

4. The limited company is by this Act dissolved, and their memorandum and articles of association shall henceforth be void and of no effect.

Incorporation of Company.

5. The present members of or shareholders in that company and all other persons who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and they are hereby united into a company for the purpose of making and supplying gas within the limits of this Act, and for doing all acts necessary for that purpose, and for other the purposes by this Act and the said incorporated Acts authorised, and for the several purposes aforesaid shall be incorporated by the name of "The Whitby Gas Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, hold, and dispose of lands and other property for the purposes of this Act.

General powers of Company.

6. Subject to the provisions of this Act and the Acts incorporated therewith, the Company may make and supply gas within the limits of this Act, and may sell and dispose of coke, coal tar, and

all other products, refuse, or residuum arising, remaining, produced by, or obtained from the manufacture of gas by them, or the materials used therein, and may sell such articles as can be produced from or by means of the several matters and things aforesaid; and may (but only for the purposes of the Company within the limits of this Act) contract for, take, and use any leave, license, or authority to work, use, exercise, or put in practice any invention or inventions under any letters patent at any time heretofore made or hereafter to be made granting any right or privilege of working, using, exercising, or vending any invention in relation to the manufacture and distribution of gas, or of the residual products arising from the manufacture of gas, or otherwise in relation thereto, but not so as to acquire an exclusive right to the working, use, exercise, or putting in practice of any such invention or inventions; and may also manufacture, and sell, let, or deal in gas fittings, tubes, meters, pipes, and all other articles and things in any way connected with gasworks or with the supply of gas to the consumers thereof, in such manner as the Company may think proper, and generally carry on the business usually carried on by gas companies, or which is or may become incident thereto: Provided that nothing in this Act contained shall prevent the Company from being liable to an indictment for nuisance, or to any other legal proceeding to which they may be liable in consequence of any such operations.

Nothing to exempt Company from being indicted for a nuisance.

7. Subject to the provisions of this Act, all lands, works, erections, buildings, rights, and easements which, immediately before the passing of this Act, were vested in the limited company, or any person or persons in trust for them or on their behalf, or to which the limited company were in any wise entitled at law or in equity, and all mains and pipes, plant, plugs, lamps, irons, retorts, gauges, meters, lamp-posts, apparatus, stock, effects, matters, and things which have been by them purchased or provided, laid down, erected, or placed, in any place or house within the limits of this Act, or which, immediately before the passing of this Act, were the property of or belonging to the same Company, and all moneys, securities, credits, effects, and other property whatsoever belonging to the limited company, or to any trustees on their behalf, for the purposes of such Company, shall be and the same are hereby vested in the Company to the same extent and for the same estate and interest as the same were previously to the passing of this Act vested in the limited company or any trustees on their behalf, and may, according to the provisions of this Act, be held and enjoyed, sued for, and recovered by the Company.

Property of limited company vested in Company incorporated by this Act.

8. Notwithstanding the incorporation of the Company and the avoidance of their memorandum and articles of association, and

Saving previous rights and liabilities.

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except as is by this Act otherwise expressly provided, everything before the passing of this Act done or suffered by or with reference to the limited company, or the shareholders therein in that capacity, shall be as valid as if the Company had not been hereby incorporated and the said memorandum and articles had not been avoided by this Act, and such incorporation and avoidance and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered, and to all rights, liabilities, claims, and demands, both present and future, which, if the Company were not incorporated and the said memorandum and articles of association were not avoided by this Act, and this Act were not passed, would be incident to or consequent on any and every thing so done and suffered; and with respect to all such rights, liabilities, claims, and demands, the Company shall, to all intents and purposes, represent the limited company and the shareholders therein in their capacity of shareholders: Provided always, that the generality of this enactment shall not be restricted by any of the other provisions of this Act.

Contracts prior to the passing of this Act to be binding.

9. Except as by this Act otherwise specially provided, all purchases, conveyances, grants, assurances, deeds, contracts, bonds, and agreements entered into or made before the passing of this Act, by, to, or with the limited company, or any trustees or persons acting on behalf of such company, or by or with any other person to whose rights and liabilities they have succeeded as assigns, and now in force, shall be as binding and of as full force and effect in every respect against or in favour of the Company, and may be enforced as fully and effectually as if, instead of the limited company, or the trustees or persons acting on behalf of the limited company, or any other such person, the Company had been a party thereto.

Actions, &c. not to abate.

10. Nothing in this Act contained shall release, discharge, or suspend any action, suit, or other proceeding at law or in equity which was pending by or against the limited company, or any member thereof in relation to the affairs of the limited company, or to which the limited company, or any member thereof in relation to such affairs, were parties immediately before the passing of this Act; but any such action, suit, or other proceeding may be maintained, prosecuted, or continued by or in favour of or against the Company (as the case may be), in the same manner and as effectually and advantageously as the same might have been maintained, prosecuted, or continued by, in favour of, or against the limited company, or any member thereof, if this Act had not been passed; the Company being, in reference to the matters aforesaid, in all respects substituted for the limited company.

Judgments in respect of existing liabilities may be enforced against individual shareholders.

11. If any judgment, decree, or order be at any time after the passing of this Act obtained against the Company in respect of any debt or liability owing or incurred, or in respect of any contract made or tort committed, by the limited company before the passing of this Act, and be not fully satisfied out of the property of the Company, then and in every such case the judgment, decree, or order may be enforced, and execution thereon issued, against the property, effects, and persons of any person who was a member of the limited company immediately before the passing of this Act, or at the time when the contract was made or the tort was committed in respect of which the debt or liability accrued or was incurred, and legally responsible in respect of such debt or liability, to the same extent as if this Act had not been passed.

Reimbursement of shareholders in such case.

12. Every person against whom or against whose property or effects any such judgment, decree, or order is enforced shall be entitled to recover against the Company all loss, damage, costs, and charges which he incurs by reason of the execution, and shall be entitled to contribution for so much thereof as remains unsatisfied from the several other persons against whom execution on the judgment, decree, or order might, in accordance with this Act, have been issued; and the contribution may be recovered in like manner as contribution in ordinary cases of copartnership.

Trustees of limited company to be indemnified.

13. Every trustee or other person in whom or in whose name any lands, works, buildings, easements, rights, property, or effects belonging to the limited company were vested immediately before the passing of this Act, and who (being duly authorised so to do) entered into any bond, covenant, contract, or engagement in respect of the same, or otherwise, on behalf of the limited company, shall be indemnified and saved harmless out of the property of the Company from and against all liability, loss, costs, charges, and expenses under or by reason of every such bond, covenant, contract, or engagement.

Gas rates, &c. to be recovered.

14. All gas rates, rents, and sums of money which immediately before the passing of this Act were due and payable or accruing to the limited company shall be payable to and may be collected and recovered by the Company in like manner as the gas rates, rents, and sums of money under this Act.

As to payment of debts owing before the passing of this Act.

15. All persons who immediately before the passing of this Act owed any money to the limited company, or to any person on their behalf, shall pay the same, with all interest (if any) due, payable, or accruing upon the same, to the Company; and all debts and moneys which immediately before the passing of this Act were due or owing or recoverable from the limited company, or for the

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payment of which the limited company were or but for this Act would be liable, shall be paid, with all interest (if any) due or payable or accruing upon the same, by or be recoverable from the Company.

Shareholders to pay calls.

16. Notwithstanding the passing of this Act, the several persons who immediately before the passing of this Act were shareholders in the limited company, their heirs, executors, administrators, and assigns respectively, shall pay the amount subscribed by them respectively, or so much thereof as at the time of the passing of this Act had not been paid, with all interest (if any) due or to accrue due thereon, to the Company, when and as the same shall be called up or otherwise demanded by the Company.

Certificates, &c. to remain in force.

17. All certificates of shares in the undertaking of the limited company (until cancelled under the powers of this Act), sales, transfers, and dispositions heretofore made or executed with respect to any shares in the limited company, shall remain in full force, and continue and be available in all respects as if this Act had not passed.

Books, &c. continued in evidence.

18. Notwithstanding the dissolution and avoidance aforesaid, all documents, books, and writings which, if the dissolution and avoidance had not happened, would be receivable in evidence, shall be admitted as evidence in all courts of law and equity and elsewhere accordingly.

Officers to continue until removed.

19. All officers and servants of the limited company who were in office immediately before the passing of this Act shall hold and enjoy their respective offices and employments, together with the salaries and emoluments thereunto annexed, until they shall resign the same, or be removed therefrom by the Company, and shall have the like powers and authorities for the purposes of this Act, and for carrying the same into execution, and shall be subject and liable to the like conditions, obligations, pains, and penalties, and to the like powers of removal, and to the like rules, restrictions, and regulations in all respects whatsoever as if they had been appointed under this Act.

Capital.

20. The capital of the Company shall be thirty-three thousand pounds, whereof eighteen thousand pounds is in this Act called the original capital, and shall be divided into one thousand eight hundred shares of ten pounds each; and fifteen thousand pounds is in this Act called the additional capital, which shall be raised in manner herein-after mentioned.

Appropriation thereof.

21. The original capital shall be appropriated and belong to the several persons and corporations who immediately before the passing of this Act are the registered shareholders in the limited company,

in the proportion as near as may be of one share of ten pounds for every then existing share of twenty pounds in the capital of the limited company as then existing, and in substitution for the said existing shares.

New shares to be subject to the same trusts, &c. as old shares.

22. Every share so appropriated shall be subject and liable to the same trusts, powers, provisoes, declarations, agreements, charges, liens, and encumbrances as immediately before the passing of this Act affected the then existing share in the limited company for which it is substituted, and so as to give effect to and not to revoke any testamentary disposition of or affecting such existing share.

Directors may call in and cancel existing share certificates, and issue new certificates in lieu thereof.

23. The directors may call in and cancel the existing certificates of shares in the limited company, and issue in lieu thereof certificates of proprietorship under this Act, in the form and under the conditions prescribed by "The Companies Clauses Consolidation Act, 1845," but the holders of such existing certificates of shares shall not be entitled to any certificates of proprietorship under this Act until they shall have delivered up to the Company to be cancelled the certificates of proprietorship issued to them before the passing of this Act, or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

Power to raise additional capital.

24. The Company may from time to time raise the additional capital, or any part thereof, by the creation of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, at the option of the Company, but no such share shall be of less amount than ten pounds.

Shares not to issue until one fifth paid up.

25. The Company shall not issue any such new share, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share is paid up in respect thereof.

Calls.

26. 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.

Limit of dividend on new capital.

27. The Company shall not in any 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 of such capital as may be issued as preference.

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New shares to be first offered by public auction.

28. Notwithstanding anything in this Act or in the incorporated Acts contained, the Company shall, whenever any new shares are to be created and issued under this Act, and before offering them to the holders of any other shares in the Company, and whether the shares of the Company are or are not at a premium, offer the same for sale by public auction within the limits of this Act, in lots of not more than five shares each, and in such manner, at such times, and subject to such conditions of sale, not inconsistent with the provisions of this Act, as the Company may determine; provided that at any such sale the reserved price shall not be less than or exceed the nominal amount of the shares offered for sale, and when any of such new shares have been offered for sale by auction, and not sold, the same shall be offered to the holders of the ordinary shares in manner provided by "The Companies Clauses Act, 1863."

Sales to be advertised.

29. The intention to sell any such shares by auction shall be duly advertised for three successive weeks previously to the sale in some newspaper published in the borough of Whitby.

Premiums received on sale to be applied to purposes of Company.

30. All moneys received upon every such sale by way of premium shall be applied for the purposes of the Company, and shall not be considered a part of the capital of the Company entitled to dividend.

Receipt of guardians, &c. to be sufficient discharge.

31. If any money be payable to a shareholder being a minor, idiot, or lunatic, the receipt of his or her respective guardian or committee shall be a sufficient discharge to the Company for the same.

Power to borrow on mortgage.

32. The Company may from time to time borrow on mortgage any sum not exceeding in the whole four thousand five hundred pounds, being one fourth of the original capital of eighteen thousand pounds, and may also from time to time borrow on mortgage any further sum not exceeding in the whole three thousand seven hundred and fifty pounds, being one fourth of the additional capital of fifteen thousand pounds, but no part of such respective sums of four thousand five hundred pounds and three thousand seven hundred and fifty pounds shall be borrowed until the whole of the capital in respect of which the borrowing power is exercised is subscribed for, issued, and accepted, and one half of that share capital is 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 the whole of such share capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that 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 subscribers or their assigns, and that such subscribers 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 shall be sufficient evidence thereof.

Arrears may be enforced by appointment of receiver.

33. 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 authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five hundred pounds in the whole.

Application of moneys.

34. All moneys raised under this Act by the Company, whether by shares or by borrowing, shall be applied only to the purposes by this Act authorised.

First ordinary meeting.

35. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Quorum of general meetings.

36. The quorum of general meetings (whether ordinary or extraordinary) of the Company shall be five shareholders present in person or by proxy, holding in the aggregate not less than five hundred pounds in the capital of the Company.

Extraordinary meetings may be convened.

37. The number of shareholders who may convene extraordinary meetings of the Company shall not be less than five, holding together not less than two thousand pounds in the capital of the Company.

Votes of shareholders.

38. Every shareholder shall have one vote for every share up to ten, and he shall have an additional vote for every five shares beyond the first ten shares.

Number and qualification of directors.

39. The number of directors shall be five, and the qualification of every director shall be the possession in his own right of not less than two hundred pounds in the capital of the Company.

Power to reduce number of directors.

40. The Company may reduce the number of directors, so that the reduced number be not less than three.

First directors.

41. The persons who at the time of the passing of this Act are directors of the limited company shall be the first directors of the Company.

As to retention of office by first directors.

42. The first directors of the Company shall continue in office until the first general meeting held after the passing of this Act; at

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As to future election of directors.

that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act 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 being, if qualified, eligible for re-election; and at the first general meeting to be held in every year after the first general meeting the shareholders present in person 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 in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at such meeting, being neither removed nor disqualified, nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Quorum.

43. The quorum of a meeting of directors shall be three so long as their number is more than three, but if the number of directors be reduced to three the quorum of a meeting of directors shall be two.

Auditors need not hold shares.

44. The auditors need not hold shares in the Company.

Representation of the Company in cases of bankruptcy, &c.

45. In all proceedings against the estate of any bankrupt, or under any sequestration, any person appointed for that purpose by the directors of the Company may represent the Company, and act in their behalf in all respects as if the claim or demand of the Company against such estate were the claim or demand of such person, and not of the Company.

Limits of Act.

46. The limits of this Act shall be and include the townships and places of Whitby, Ruswarp, and Hawsker-cum-Stainsacre, in the north riding of Yorkshire.

Power to take additional lands by agreement.

47. The Company may from time to time, for the purposes of this Act, purchase by agreement any lands in addition to the lands by this Act vested in them, and may hold the same, not exceeding in the whole at one time five acres.

Power to take easements, &c. by agreement.

48. Persons empowered by "The Lands Clauses Consolidation Act, 1845," to sell and convey or release lands may, if they think fit, subject to the provisions of that Act and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," grant to the Company any easement, right, or privilege required for the purposes of this Act in, over, or affecting any such lands; and the provisions of the last-mentioned Acts with respect to lands and rentcharges, as far as the same are applicable in this behalf, shall extend and apply to such grants, or to such easement, rights, or privileges as aforesaid.

Sale of superfluous lands.

49. The Company may at any time hereafter sell and dispose of any lands which are by this Act vested in them, or which they may hereafter acquire, and which shall not be required for the purposes of the Company, and the provisions of "The Lands Clauses Consolidation Act, 1845," sections 128 to 132 (both sections inclusive), shall apply to any such sale; and the Company may also from time to time sell and dispose of any works, buildings, or erections on any lands belonging to them which shall not be required for the purposes of the Company.

Power to maintain and erect gasworks.

50. On the lands described in the Schedule (A.) to this Act, the Company may erect and maintain, and from time to time alter and enlarge, retorts, gasholders, receivers, meters, apparatus, and works for the manufacture and storing of gas, and of coke and other residual products obtained in the manufacture of gas and matters producible therefrom, and all proper approaches and conveniences for the purposes of such works.

Prohibition against erecting gasworks elsewhere.

51. Provided always, that the Company shall not manufacture gas, or any such residual products aforesaid, except upon the lands described in the Schedule (A.) to this Act, and the Company shall not store gas, except upon those lands and the lands described in Schedule (B.), without the previous consent in writing of the owner, lessee, and occupier of every dwelling-house situate within three hundred yards of the limits of the site where such gas is intended to be stored.

Power to supply gas.

52. Subject to the provisions of this Act, the Company may supply and sell gas for public and private consumption within the limits of this Act, and light or contract for the lighting of streets and public buildings within those limits, and sell and dispose of at the works and elsewhere coal, coke, tar, and ammoniacal liquor, and other residual products obtained in the manufacture of gas, and matters producible therefrom, but the Company shall not be exempt from liability to indictment or to any other legal proceeding to which they may be liable in consequence of anything done by them under this Act.

Power to supply gas fittings, &c.

53. The Company may manufacture, purchase, supply, hire, sell, let, lay down, place, and maintain gas fittings, meters, pipes, pillars, lamp-posts, lamps, burners, and other articles and things connected with gasworks, or with the supply of gas for public or private consumption, in such manner as they think proper, and generally may carry on such operations and business as are for the time being usually carried on by gas companies.

Power to lay pipes against buildings.

54. The Company, with the consent of the owner and occupier of any building, may lay any pipe, branch, or other necessary appa-

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ratus from any main or branch pipe into, through, or against any 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, or discontinue and remove any such pipe, branch, or apparatus.

Consumers may be required to consume by meter.

55. Every private consumer of gas supplied by the Company shall, on being required by the Company so to do, consume such gas by meter; and every consumer may require the Company to allow him to consume the gas by meter, to be approved of by the Company.

Power to the Company to let meters.

56. The Company may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings thereto, for such remuneration in money, and on such terms, with respect to the repair of such meter and fittings, and for securing the safety and return to the Company of such meter, as may be agreed upon between the hirer and the Company, and such remuneration shall be recoverable in the same manner as the rents or sums due to the Company for gas, and such meters and fittings shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the persons in whose possession the same may be.

Notice to Company of altering meters.

57. Before any person shall connect or disconnect any meter through 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.

Repair of meters.

58. Every consumer of gas supplied by the Company shall at all times, at his own expense, keep all meters belonging to him, whereby any gas of the Company is registered, in proper order for correctly registering such gas, in default whereof the Company may cease to supply gas through such meters; 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 customer, such taking off, removal, testing, inspecting, and replacing to be done at the expense of the Company if the meter be found in proper order, but otherwise at the expense of the consumer.

Power to enter buildings for ascertaining quantities of gas consumed.

59. Any officer appointed by the Company may at all reasonable times enter any building or land lighted with gas supplied by the Company in order to inspect the meters, fittings, and works for the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer

as aforesaid from entering and making such inspection as aforesaid at any reasonable time he shall for every such offence forfeit to the Company a sum not exceeding five pounds.

Register of gas meter to be primâ facie evidence.

60. The register of the meter shall be primâ facie evidence of the quantity of gas consumed by any customer of the Company, and in respect of which any rent is charged and sought to be recovered by the Company.

Fraudulently injuring meter.

61. Every person who shall wilfully, fraudulently, or by culpable negligence injure or suffer to be injured any meter or fitting belonging to the Company, or shall fraudulently alter the index to any meter, or shall prevent the index of 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 a sum not exceeding five pounds, and the Company may, in addition thereto, recover the amount of any damages by them sustained, and the Company may also discontinue the supply of gas to the person so offending until the injury is remedied and the amount of the damages is paid, and notwithstanding any contract previously existing, and the existence of artificial means for causing such alteration or prevention, when such meter shall be under the custody or control of the consumer, shall be primâ facie evidence that the same has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

Power to remove meters and fittings.

62. The Company may, 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 pipes, mains, meters, or fittings belonging to the Company are laid or fixed, and through or in which the supply of gas shall, from any cause other than the neglect or default of the Company, be discontinued, enter such land, house, or building between the hours of nine in the morning and four in the afternoon for the purpose of removing and remove such pipes, meters, or fittings, repairing all damages caused by such 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 such person or his address be not known to the Company after due inquiry, then by being affixed on some conspicuous part of such land, house, or building.

Company to supply gas in certain event at request of owner or occupier.

63. The Company shall, at the request in writing of any owner or occupier of any premises within twenty-five yards of which any main gaspipe of the Company shall be then laid, furnish to him a sufficient supply of gas for such premises, together with a meter and

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so much of the service pipe as shall be necessary to communicate between the main pipe of the Company and such meter: Provided that the expense of so much of the service pipe as shall be laid upon private property, or in any other case as shall be laid beyond forty feet in length, shall be defrayed by such owner or occupier: And provided further, that the Company shall not be bound to furnish such supply of gas or meter or service pipe, unless such owner or occupier shall enter into a written contract to continue to receive and pay for a supply of gas for a period of at least one year, and to an amount not being less than ten pounds per centum per annum on the outlay incurred by the Company in providing such service pipe and meter; and if the Company shall by their wilful default fail to supply the gas within a reasonable time after such request, then on proof of such failure the Company shall be subject to a penalty not exceeding five pounds.

Security for payment of rate.

64. Any person having or requesting to have a supply of gas from the Company shall, if and when so required in writing by them, and before he is entitled to have such service pipe and meter provided and fixed, or to have a supply of gas, give to them such security for the payment by him of the rate for the gas to be supplied to him as he and the Company agree on, or as, in default of agreement, shall be determined as by this Act provided; and the Company shall be liable to a penalty not exceeding five pounds if they shall discontinue the supply of gas to any person then having a supply, unless such person shall have failed to give to them such security for seven days after the same shall have been demanded by the Company.

Justice may determine nature of security.

65. Where any such person and the Company do not agree on the security to be given the same shall be determined by a justice; and any single justice shall, on the application of the person and the Company, or either of them, determine the nature and amount of the security to be given; and the security may, as the justice thinks fit, be the deposit with the Company or with any person approved by the justice, or the prepayment to the Company, of a sum of money, or other security which the justice thinks sufficient and reasonable, and the determination of the justice shall be binding on all parties: Provided that if the security be the deposit with the Company of a sum of money the Company shall pay interest thereon to the consumer at such rate and for such time as the justice determines.

Limiting price of gas.

66. The price to be charged by the Company for gas supplied to persons who shall burn the same by meter shall not exceed five shillings per one thousand cubic feet.

Recovery of gas rents and cutting off supply in certain cases.

67. If any person supplied with gas by the Company shall neglect to pay the rent due for the same, or if any such person shall offend against any of the provisions of this Act in relation to the supply or use of gas, the Company, notwithstanding any existing contract with such person, and over and above and without prejudice to all other remedies, may stop the gas from entering the building or land for the use of which such gas has been supplied, by cutting off the service pipe until the act complained of be remedied, or by such other means as they shall think fit, and shall have the same powers and remedies for recovering and enforcing payment of the rent due from such person, together with the costs of cutting off the gas and of recovering the rent, as are by this Act provided for the recovering and enforcing payment of gas rents; and such person, notwithstanding such gas shall have been cut off, shall pay for all gas consumed by him up to the time the gas has been so cut off.

Penalty for fraudulently using the gas of the Company.

68. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the Company without their consent, or shall fraudulently use or fraudulently or wilfully injure, remove, or destroy any meter or other apparatus belonging to the Company, or who shall waste or improperly use any of the gas supplied by the Company, or who shall supply any other person with any part of the gas supplied to him by the Company, shall forfeit to the Company the sum of five pounds for every such offence, and also the sum of forty shillings for every day such pipe shall so remain or such apparatus or burner shall be so used, or such excess or waste be so committed or continued, or such supply furnished.

For preventing frauds and waste of gas.

69. 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 under this Act which 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 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 may sustain by reason of any such thing or failure, and the remedies of the Company under this enactment shall be in addition to their other remedies in that behalf.

Recovery of charges for gas.

70. In case any person who shall have been supplied with gas by the Company, or who shall be liable to payment in respect of a

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supply of gas under or by virtue of the provisions of this Act, shall neglect or refuse to pay the amount due in respect of such supply, any justice may issue his summons to such 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 appearauce of such person, or in default of appearance after proof of the service of the summons, either personally or at the last known place of abode or of business of such person, no sufficient cause can be shown to the contrary, any justice may issue his warrant of distress for the seizure and sale of the goods and chattels of such person for the recovery of the amount which may be proved before such justice to be due from such person, together with such costs, including the cost of cutting off the gas if the same shall have been cut off by the Company, as to such justice shall seem just and reasonable.

Contents of warrant.

71. Any one summons or warrant issued for any of the purposes of this Act may contain in the body thereof, or in a schedule thereto, several names and several sums.

Warrant shall include costs.

72. Any justice who issues a warrant of distress for any of the purposes of this Act may order that the cost of the proceedings for the recovery of the money to be levied shall be paid by the person liable to pay such money, and such costs shall be ascertained by the justice, and shall be included in the warrant of distress for the recovery of such money.

Recovery of sums due to Company.

73. Whenever any person neglects to pay any 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 the like amount, and the remedies of the Company under this enactment shall be in addition to their other remedies for the recovery of such rent or sum.

Incoming tenants not liable to pay arrears of gas rent, &c.

74. In case any consumer of the gas of the Company shall leave the premises where such gas has been supplied to him without paying to the Company the gas rent or meter rent due from him, the Company shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant shall have undertaken with the former tenant to pay or exonerate him from the payment of such arrears.

Local authority may agree for lamps.

75. The local authority may contract with the Company for providing and keeping in repair or purchasing the public lamps, lamp-posts, burners, brackets, and irons, and for lighting and extinguishing public lamps; and with respect to any public lamp-posts, lamps, and fittings belonging to the Company, such lamp-posts, lamps, and fittings shall not be removed, except at the instance or

with the consent of the local authority, or in the event of the lighting of any lamp being discontinued, but the Company shall be entitled to receive for providing and maintaining such lamp-posts, lamps, and fittings such reasonable annual or other remuneration as may be mutually agreed upon, or as, in case of difference, shall be settled in manner herein-after mentioned.

Penalty for failure to supply gas to public lamps.

76. If and whenever the Company wilfully fail to supply gas as by this Act required to all or any of the public lamps, they shall be liable to a penalty not exceeding forty shillings for each default.

Price of gas supplied to public lamps.

77. The Company shall supply gas to public lamps in such quantities as the local authority may in writing under the hand of their clerk from time to time require to be supplied; and the price to be charged by the Company, and to be paid to them, for all gas so supplied to or for any such public lamps, shall never exceed the lowest price for the time being charged by the Company to any other consumer or consumers within the limits in which such public lamps shall be situated.

Mode of consuming gas supplied to public lamps.

78. The gas supplied to the public lamps shall be consumed either by meter or otherwise, at the option of the local authority, and in case of its being consumed by meter the meter shall be provided and fixed by the Company at the expense of the local authority; but neither party shall, except as herein-after provided, be entitled to require that a meter be affixed to more than one in every ten lamps then supplied with gas under this Act; provided that the Company shall be at liberty, if they think fit, to have a meter affixed to any additional number of lamps, they providing such meters, and paying to the local authority the additional expense of providing and adjusting the lamps, lamp-posts, and other things necessary for their reception and use: Provided always, that if the gas shall, under the provisions of this Act, be supplied to the public lamps by average meter indication, the Company shall, for securing uniformity of consumption between metered and unmetered lamps, from time to time provide the public lamps under the control of the local authority with proper self-acting pressure regulators and burners.

As to meters for public lamps.

79. The average amount of the indications of all the meters attached to the public lamps under the control of the local authority shall, except as herein-before mentioned, be deemed to be the amount consumed by each such lamp.

As to the gas supplied to public lamps.

80. The gas supplied to any such public lamps shall be permitted to pass unrestricted to and from such self-acting regulator

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for the whole of the period during which any such public lamps shall be lighted.

As to testing accuracy of meters.

81. If either the Company or the local authority shall dispute the accuracy of the registration of any meter used for measuring the gas supplied to the public lamps, then such meter shall be tested in the manner provided by the Act passed in the session of Parliament held in the twenty-second and twenty-third years of the reign of Her present Majesty, intituled "An Act for regulating Measures "used in the Sales of Gas;" and if found to register erroneously within the meaning of the said Act, or in case any such meter shall be shown to have at any time ceased to register, notwithstanding gas may have passed through it to the burners, and notwithstanding such meter shall, on being submitted to the test, then act correctly, it shall not be deemed to be one of the meters from which the average aforesaid shall be determined.

22 & 23 Vict. c. 66.

For settlement of differences between the Company and the local authority.

82. Any difference which may arise under any of the provisions herein-before contained with respect to the local authority between the Company and any such local authority, shall be from time to time settled by arbitration in manner provided by "The Lands Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

Quality of Company's gas.

83. All the gas supplied by the Company shall be of such quality as to produce from an argand burner having fifteen holes and a seven-inch chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to the light produced by fourteen sperm candles of six in the pound burning one hundred and twenty grains per hour, and shall be so far free from sulphuretted hydrogen as not to discolour moistened test paper imbued with acetate or carbonate of lead when such paper is exposed for one minute to a current of gas issuing under a pressure of five tenths of an inch of water.

Company to maintain meter to test illuminating power of gas.

84. The Company shall always maintain at their works an experimental meter furnished with an argand fifteen-holes burner and a seven-inch chimney capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas of the Company, and so situate as to test the whole of the gas from time to time supplied by the Company, and the Company shall at all times keep and maintain the experimental meter and apparatus in good repair and working order.

As to testing the quality of gas.

85. Two justices, on the application of any local authority within the limits of this Act, or on the application of the consumers of the gas of the Company, not being less than five, by order in

writing, may appoint some competent person to proceed to the works of the Company; and the person so appointed may, at any reasonable hour in the daytime, on producing the said order, enter on the premises of the Company, and in the presence of the superintendent or other officer of the Company, if attending for that purpose, and if not, then in the absence of any such officer, make experiment of the illuminating power and purity of the gas by means of the experimental meter and other apparatus before mentioned, and the Company and their officers shall afford all reasonable facilities and assistance for the making of such experiments.

Penalty if gas below prescribed illuminating power, &c.

86. If it shall be proved to the satisfaction of any two justices, not being shareholders of the Company, after hearing the parties, that the illuminating power or purity of the gas supplied by the Company did not, when so tested as aforesaid, equal the illuminating power and purity by this Act prescribed, or that the Company or their officers, on being thereunto reasonably requested, wilfully refused to afford such reasonable facilities as aforesaid, or wilfully hindered or prevented the making of such experiment, in any such case the Company shall forfeit such sum not exceeding twenty pounds as the justices shall determine under the circumstances of the case, to be paid to the local authority or consumers making the application.

Cost of experiments to be paid according to events.

87. The costs of and attending such experiment, including the remuneration to be paid to the person making the same, and the cost of the proceedings before the justices, shall be ascertained by such justices, and in the event of any penalty being imposed on the Company shall be paid together with such penalty by the Company, but in the event of no penalty being imposed the costs shall be in the discretion of the justices.

Contracts for supplying gas for public purposes.

88. The Company on the one hand, and any local authority, or the trustees of any turnpike or other road, or any highway board constituted in pursuance of any Act relating to highways in England, or the surveyors of any highway, or any other corporation, bodies, or persons, on the other hand, may from time to time enter into and carry into effect any contract or arrangement for the supply of gas by the Company for public purposes within the limits of this Act for any period not exceeding, under any one such contract or arrangement, seven years, and may from time to time by mutual consent vary, suspend, or rescind any such contract or arrangement, or enter into or carry into effect other contracts or arrangements in lieu thereof or in addition thereto; and any board, trustees, corporations, bodies, or persons so agreeing may apply for the purposes of any such contract or arrangement, and in payment of any

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periodical or other remuneration or other consideration payable to the Company under or by virtue thereof, any funds or moneys which they have raised or may raise under the powers of any Act of Parliament.

Penalties not cumulative.

89. Penalties imposed on the Company for one and the same offence by several Acts of Parliament shall not be cumulative, and for such purpose this Act and the Acts incorporated herewith shall be deemed several Acts.

Liability to gas rent not to disqualify justices.

90. No justice or judge of any county court or quarter session 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 other charge under this Act.

Saving rights of trustees of Whitby piers and harbour under agreement with A. O. Atkinson.

91. Whereas the undertaking comprises and includes a line of pipes laid across the harbour, lands, or other property of the trustees acting under an Act passed in the seventh and eighth years of the reign of His late Majesty King George the Fourth, intituled "An "Act for the more effectual repairing, maintaining, and improving "the piers and harbour of the town and port of Whitby in the county "of York:" And whereas the said line of pipes was with the consent of the said trustees so laid across their said harbour, lands, and property, under and by virtue of and subject to the conditions, provisions, and restrictions contained in a certain indenture dated the second day of July one thousand eight hundred and sixty-two, and made between certain of the trustees then acting under the said Act therein named of the first part, and Anthony Owst Atkinson (who was then the owner of certain gasworks which now form part of the undertaking) of the other part, a copy of which indenture is set forth in the Schedule (C.) to this Act, and it is expedient that the rights of the trustees should be preserved: Therefore the said indenture shall from and after the passing of this Act be read and construed as if the Company had been named therein, in lieu and instead of the said Anthony Owst Atkinson, his heirs, executors, administrators, or assigns; and nothing in this Act shall be construed to confer on the Company any powers over or in respect of the harbour, lands, or property of the trustees other than such as they are entitled to under the said indenture.

Saving rights of the lord of the manor.

92. Nothing in this Act contained shall extend or be construed to extend to alter, lessen, prejudice, defeat, or impeach any of the powers, rights, or privileges of the lord of the manors of Whitby, Whitby Laithes, and Stakesby, and liberty of Whitby Strand, or his jurisdiction within the same manors and liberty, or his powers, rights, and privileges within and over the port of Whitby, except so far as the same are inconsistent with the purposes of this Act, or

are by this Act expressly altered, lessened, prejudiced, defeated, or impeached.

Saving rights of the Crown in the foreshore.

93. Nothing contained in this Act, or in any of the Acts incorporated herewith, shall authorise the said Company to take, use, or in any manner interfere with any foreshore or other land, soil, tenements, or hereditaments, or any right of whatsoever nature belonging to the Queen's most Excellent Majesty in right of her Crown, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in the said Act or Acts contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Expenses of Act.

94. All the costs, charges, and expenses of and incident to the passing of this Act, and preparatory thereto, shall be paid by the Company.

SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

A plot of freehold land, part of the Batts, in the township of Ruswarp in the north riding of the county of York, bounded on the north-west by the North-eastern Railway, on the south by the river Esk, and on the north and east by property of the said North-eastern Railway Company, and containing 6,000 square yards or thereabouts.

SCHEDULE (B.)

A piece of freehold ground, containing 564 square yards or thereabouts, situate on the east side of Church Street in Whitby aforesaid, being the site on part of which two gasholders and buildings appurtenant formerly stood, the greater portion of which form the original Whitby Gasworks.

SCHEDULE (C.)

This indenture, made the 2nd day of July in the year 1862, between Robert Barry, of Park Hill in the township of Fylingdales in the parish of Whitby in the county of York, esquire, William Jameson, of Whitby aforesaid, esquire, John Chapman, of Lower Stakesley near Whitby aforesaid, esquire, Henry Simpson, of Meadowfield House near Whitby aforesaid, esquire, Christopher Richardson, of St. Hilda's Terrace in Whitby aforesaid, esquire, and Joseph Barker, of Whitby aforesaid, esquire, six of the trustees acting under the Act made and passed in the seventh and eighth years of the reign of His Majesty King George the Fourth, intituled "An Act for the more effectual repairing, "maintaining, and improving the piers and harbour of the town and port of "Whitby in the county of York," of the one or first part, and Anthony Owst Atkinson, of the town and county of Kingston-upon-Hull, gentleman, of the second or other part: Whereas the said Anthony Owst Atkinson is the owner of certain gasworks situate on the western bank of the river Esk within the borough of Whitby aforesaid, which were erected for the purpose of supplying gas for lighting the said borough: And whereas in order to supply gas for the eastern part of the said borough it is necessary that the same should be conveyed from the said works across the said harbour of the town and port of Whitby aforesaid, which is by virtue of the said Act under the control and management of the said trustees: And whereas the mode in which gas is at present conveyed across the said harbour for the use of the eastern part of the said borough is

insufficient and objectionable, and is liable to be destroyed or obstructed, which would cause a great public inconvenience: And whereas the said Anthony Owst Atkinson, in order to remedy this evil, hath proposed to establish an additional crossing at a place in the upper part of the inner harbour of the said port of Whitby known as the Ford, or bar or obstruction in the channel of the said river Esk, having only one foot of water over it at low-water springs when the land discharge is an average quantity at this place, and the said Anthony Owst Atkinson proposes to convey the gas across the harbour by a main or pipe of (including its socket guards) one foot in diameter, the same to start from the leading main on the North-eastern Railway Company's property, and to cross the river obliquely in the line of the ford from near the corner of Mr. Fishburn's quay on the western side to the corner of Messrs. Smale Brothers' bonding quay on the eastern side of the said harbour, such main or pipe to be sunk in a trench excavated in the ford, and its summit or upper surface to be at the depth of two feet below the bed of the stream within the limits of the navigable channel, and according to the plan or diagram annexed to these presents: And whereas the said Anthony Owst Atkinson hath applied to and requested the said trustees to give their consent to the above-mentioned proposal, which they, at a meeting of the said trustees lately held, agreed to do on condition that the said Anthony Owst Atkinson should enter into the covenants herein-after on his part contained. Now this indenture witnesseth, that the said trustees, testified by the said parties hereto of the first part, being six of their number, do hereby declare that it was resolved, at a late meeting of the said trustees, that the consent of their body should be given to the aforesaid proposal of the said Anthony Owst Atkinson, the same being considered desirable in a public point of view; and the said trustees parties hereto of the first part do hereby testify the consent of the said trustees to the said proposal of the said Anthony Owst Atkinson accordingly; and in consideration of the premises the said Anthony Owst Atkinson doth hereby, for himself, his heirs, executors, and administrators, covenant with the said persons parties hereto of the first part, their executors and administrators, in manner following; (that is to say,) that the works indicated in or required by the aforesaid proposal of the said Anthony Owst Atkinson shall be executed by him in such manner as will cause the least obstruction practicable to the navigation and use of the said harbour, and generally to the satisfaction of the engineer of the said trustees; and further that in case the main pipe or any other part of the said works should ever be found injurious to the navigation of the said river, he, the said Anthony Owst Atkinson, his executors, administrators, or assigns, will, within two calendar months after receiving a notice in writing for the purpose from the clerk or secretary of the trustees for the time being acting under the said Act, such notice to be delivered at or sent by the post to the usual or last usual place or places of abode of the said Anthony Owst Atkinson, his executors or administrators, or some or one of them, remove the said main or pipe or other work so found to be injurious as aforesaid; and further that he, the said Anthony Owst Atkinson, his executors, administrators, or assigns, will at any time or times hereafter, after receiving such notice as aforesaid, so alter or arrange the said main or pipe or other works as to meet any improvement or alteration which the said trustees for the time being shall think it necessary to make in that part of the said harbour which forms the frontage of the North-eastern Railway Company's property, or else-

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where near the said main or pipe; and lastly that he, the said Anthony Owst Atkinson, his heirs, executors, administrators, or assigns, will from time to time and at all times hereafter save harmless and keep indemnified the said trustees for the time being, and all persons whatsoever, from any loss or damage they may incur by reason or in consequence of the said works so proposed by the said Anthony Owst Atkinson as aforesaid.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

Signed, sealed, and delivered (being first duly stamped) by the within-named Robert Barry, William Jameson, Henry Simpson, Christopher Richardson, and Joseph Barker, in the presence of
P. G. Coble,
Clerk to the Trustees,
Joseph Hunter,
Solicitor, Whitby.

Robert Barry. (L.S.)
William Jameson. (L.S.)
John Chapman. (L.S.)
Henry Simpson. (L.S.)
Chris. Richardson. (L.S.)
Joseph Barker. (L.S.)
Anthony Owst Atkinson. (L.S.)

Signed, sealed, and delivered by the within-named Anthony Owst Atkinson, in the presence of
Joseph Burroughs,
Robert G. Ashbridge,
Clerks to Anthony Owst Atkinson, Solicitor, Hull.

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