



CHAPTER xlv.

An Act for conferring further Powers on the Eastbourne Gas Company for the Purchase of Land, the Construction of Works, the raising of Money, and otherwise in relation to their undertaking. A.D. 1880.
[9th July 1880.]

WHEREAS by the Eastbourne Gas Act, 1868, (in this Act called "the Act of 1868,") the Eastbourne Gas Company (in this Act called "the Company") were (section 5) incorporated for the purpose of making and supplying gas within the town and parish of Eastbourne and the parish of Willingdon, in the county of Sussex, and (sections 17 and 22) were authorised to raise a share capital amounting in the aggregate to fifty thousand pounds, and (section 28) to borrow not exceeding in the whole twelve thousand five hundred pounds : 31 & 32 Vict.
c. cxxvi.

And whereas the Company have raised and expended upon their undertaking the whole of the moneys which they were by the Act of 1868 authorised to raise, and they now owe on mortgage the sum of twelve thousand five hundred pounds :

And whereas the population and buildings and the demand for gas within the Company's authorised limits of supply have of late years greatly increased and are still increasing, and in order to meet such demand it is expedient that the Company be authorised to acquire more land and to construct additional works, and to raise further moneys for the purpose and for the better and more effectually carrying out the objects and purposes of their undertaking :

And whereas it is expedient that the limits within which the Company are authorised to supply gas should be extended so as to include the parishes of Westham and Pevensey, both in the county of Sussex :

And whereas it is expedient that other provisions be made with respect to the Company :

And whereas plans of the lands which may be taken for the purposes of this Act, and also books of reference to the plans, containing the names of the owners and lessees, or reputed owners and

A.D. 1880. lessees, and of the occupiers of the lands, were duly deposited with the clerk of the peace for the county of Sussex, and are hereinafter respectively referred to as the deposited plans and books of reference :

And whereas the objects of this Act 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 ; (that is to say,)

Short title. 1. This Act may be cited as the Eastbourne Gas Act, 1880.

31 & 32 Vict. c. cxxvi. and this Act to be construed together. 2. The Act of 1868 (as amended by this Act) and this Act shall be read and have effect together as one Act: Provided always, that wherever the provisions of this Act are inconsistent with the provisions of the Act of 1868 the provisions of this Act shall prevail.

Incorporation of general Acts.

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
8 & 9 Vict. c. 16.

3. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters ; (namely,)

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

The payment of subscriptions and the means of enforcing the payment of calls ;

The forfeiture of shares for nonpayment of calls ;

The remedies of creditors of the Company against the shareholders ;

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

The conversion of borrowed money into capital ;

The consolidation of shares into stock ;

The making of dividends ;

The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested ;

10 & 11 Vict. c. 15. the Gasworks Clauses Act, 1847 (except the provisions thereof with respect to the amount of profit to be received by the undertakers), Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, are (except where expressly varied by this Act) incorporated with and form part of this Act, and the Gasworks Clauses Act, 1871, shall apply to the undertaking of the Company as if the same had been authorised by this Act.

26 & 27 Vict. c. 118.

32 & 33 Vict. c. 48.

34 & 35 Vict. c. 41.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated with this Act shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and the expressions "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partly 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 simple contract debt, and not a debt or demand created by statute.

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Interpreta-
tion of terms.

5. The limits within which the Company may supply gas and exercise the powers conferred on them by the Act of 1868 and this Act shall extend to and include, in addition to the parishes of Eastbourne and Willingdon, included in the limits of the Act of 1868, the parishes of Westham and Pevensey, both in the county of Sussex, and within and throughout the limits as by this Act extended the Act of 1868, as amended by this Act, and this Act shall henceforth be in full force and have effect.

Extension of
limits of
supply.

6. The Company may from time to time raise (in addition to their present capital) any further capital, not exceeding in the whole one hundred and fifty thousand pounds, by the creation and issue of new ordinary shares or stock, or new preference shares or stock, or wholly or partially by one or more of those modes respectively; but the Company shall not issue any share of less nominal value than ten pounds, nor shall any such share vest in the person or corporation accepting the same unless and until the full nominal amount of such share or stock, together with any premium obtained upon the sale thereof, shall have been paid in respect thereof: Provided that it shall not be lawful for the Company to create and issue, under the powers of this Act, any greater nominal amount of capital than shall be sufficient to produce, including any premiums which may be obtained on the sale thereof, the sum of one hundred and fifty thousand pounds: Provided also, that the Company shall not create and issue within the year following the passing of this Act any greater nominal amount of capital than shall be sufficient to produce in manner aforesaid the sum of thirty thousand pounds, or within any subsequent year the sum of twenty thousand pounds.

Power to
raise addi-
tional capital.

7. If in any year or years the Company have not created and issued capital to the full amount herein-before prescribed in relation to such year or years, they may in any subsequent year create and issue, in addition to the amount prescribed for that year, such a nominal amount of capital as shall be sufficient, together with the amount then raised, to produce in manner aforesaid thirty thousand

If capital for
any year not
raised, amount
may be made
up in sub-
sequent
years.

A.D. 1880. — pounds in respect of the year following the passing of this Act, and twenty thousand pounds in respect of every subsequent year then expired.

New shares or stock to be subject to same incidents as ordinary shares or stock.

8. Except as is by this Act otherwise provided, the capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company, of the same class or description, and the new shares or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company.

Restriction as to votes in respect of preferential shares or stock.

9. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Limitation of dividends.

10. Except as is by this Act otherwise provided, the Company shall not in any one year make out of their profits any larger dividend on the additional 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 additional capital as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such additional capital as may be issued as preference capital; and the rate of dividend hereby prescribed in respect of the additional capital issued under the powers of this Act as ordinary capital, and the respective rates of dividend prescribed by the Act of 1868 in respect of the original and additional capital respectively by that Act authorised, are in this Act referred to as the standard rates of dividend.

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

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

New capital to be offered by auction or tender.

12. Notwithstanding anything in this Act contained, the Company shall, when any shares or stock created under the powers of this Act are to be issued, and before offering the same to the holder of any other shares or stock in the Company, and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not, offer the same for sale by public auction or by tender, in such manner, at such times, and subject to such conditions of sale as the Company shall from time to time determine: Provided that at any such sale no single lot shall comprise more than

one hundred pounds nominal value of shares or stock, and that the reserved price put upon such shares or stock shall not be less than the nominal amount thereof, and notice of the amount of such reserved price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders, as the case may be, and such letter may be opened after such day of auction or last day for the reception of tenders, and not sooner, and provided that no priority of tender shall be allowed to any holder of shares or stock in the Company.

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

Purchase money to be paid within three months.

14. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the clerk of the Eastbourne Local Board, and to the secretary of the Committee of the London Stock Exchange, at least twenty-eight days before the day of auction or the last day for the reception of tenders, as the case may be, and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the district of the said local board.

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

15. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold, the same shall be offered, at the reserved price put upon the same respectively for the purpose of sale by auction or tender, to the holders of ordinary shares or ordinary stock of the Company, in manner provided by the Companies Clauses Act, 1863: Provided always, that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender, in the manner and subject to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act.

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

16. Any sum of money which shall arise from the issue of any such shares or stock by way of premium, after deducting therefrom the expenses of and incident to such issue, shall not be considered as profits of the Company, but shall be expended in extending or improving the works of the Company, or in paying off money borrowed or owing on mortgage by the Company, and shall not be considered as part of the capital of the Company entitled to dividend.

Application of premium arising on issue of shares or stock.

17. The standard price to be charged by the Company for gas supplied by them to persons who shall burn the same by meter shall be four shillings and fourpence per thousand cubic feet;

Standard price. Dividend dependent upon price charged.

A.D. 1880. — provided that the Company may increase or diminish such standard price, subject to a decrease or increase in the standard rates of dividend as defined by this Act, to be calculated as follows :

For every penny per thousand cubic feet charged by the Company in any year in excess or in diminution of such standard price the standard rates of dividend shall for such year be reduced or increased by five shillings in the hundred pounds per annum.

If profits exceed the amount limited, excess may be invested and form an insurance fund.

18. If the clear profits of the undertaking of the Company in any year amount to a larger sum than is sufficient to pay the standard rates of dividend, the excess beyond the sum necessary for that purpose may from time to time, to the extent of one per centum per annum upon the paid-up capital of the Company, be invested in Government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to a sum equal to one twentieth of the paid-up capital of the Company, which sum shall form an insurance fund to meet any extraordinary claim, demand, or charge which may at any time arise against or fall upon the Company from accidents, strikes, or other circumstances which, in the opinion of a justice, due care and management could not have prevented ; and if such fund be at any time reduced it may thereafter be again made up to the said sum, and so from time to time as often as such reduction shall happen : Provided that when and so often as the said fund shall reach one-twentieth part of the paid-up capital, the interest thereon shall be carried to the credit of the fund available for dividend ; provided also, that resort may from time to time be had to the insurance fund to meet any extraordinary claim or demand as aforesaid, although such fund may not at the time have reached or may have been reduced below the full amount of one twentieth as aforesaid.

Application of excess of profits over standard rates of dividend.

19. If the clear profits of the undertaking of the Company in any year amount to a larger sum than is sufficient to pay the standard rates of dividend on the ordinary share capital or stock of the Company, the excess, or such portion of it as is not carried to the insurance fund, shall be carried to the credit of the divisible profits of such undertaking for the next following year.

Power to create a reserve fund out of dividends in excess of standard rates, and application thereof.

20. When in any year the amount of the standard rates of dividend shall, by reason of a diminution of the standard price charged by the Company in such year, be or admit of being increased, then, out of the amount of the divisible profits of the Company applicable to the payment of such increase, the Company may in such year set apart such sum as they shall think fit, and all sums (if any) so set apart by the Company, and any reserve or other

fund of the Company existing at the passing of this Act, may be invested in Government or other securities, and the dividends and interest arising from such securities may also be invested in the same or the like securities, in order that the same may accumulate at compound interest, and the fund so formed shall be called "The Reserve Fund," and shall be applicable to the payment of dividend in any year in which the clear profits of the Company shall be insufficient to enable the Company in such year to pay the standard rates of dividend; and, save as in this Act otherwise provided, no sum shall in any year be carried by the Company to any reserve fund. A.D. 1880.

21. The Company may, in respect of the additional capital of one hundred and fifty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sums not exceeding in the whole thirty-seven thousand five hundred pounds, and the Company may as each sum of thirty-seven thousand five hundred pounds of such additional capital has been issued and accepted, and one half of each such sum has been paid up, borrow on mortgage any sums not exceeding nine thousand three hundred and seventy-five pounds, but no such borrowing powers shall be exercised until 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 shares for so much of such capital in respect of which the borrowing powers are sought to be exercised as is to be raised by means of shares have been issued and accepted, and that one half of such capital 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 until stock for one half of so much of the capital in respect of which such borrowing powers are exercised as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up *bonâ fide*, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also as to so much of the said capital as is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, or of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof. Power to borrow on mortgage.

22. Section 30 of the Act of 1868, with respect to the appointment of a receiver, is hereby repealed, but without prejudice to any 31 & 32 Vict. c. cxxvi. repealed as to

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 appointment
 of receiver. appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under any such section.

Appointment
 of receiver. **23.** 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 five thousand pounds in the whole.

As to con-
 version of
 borrowed
 money into
 capital. **24.** The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or 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 so created are limited to a rate not exceeding five pounds per centum per annum.

Existing
 mortgages to
 have priority. **25.** All mortgages granted by the Company, in pursuance of the powers of the Act of 1868, before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages and subject to the provisions of the Act of 1868, have priority over any mortgages granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture
 stock. **26.** 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 after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of
 mortgages
 and debenture
 stock over
 other debts. **27.** 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: 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

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pursuance of any Act relating to the Company, which is entitled to rank in priority to or *pari passu* with the interest or dividend on their mortgages or debenture stock; nor shall anything herein-before contained affect any claim for land taken, used, or occupied by the Company for the purposes of their works or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

28. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied only for the purposes of this Act and for the general purposes of the Company. Application of moneys.

29. Subject to the provisions of this Act, and except as is herein-after otherwise expressly provided, the Company may enter upon, take, and use all or any of the lands delineated on the deposited plans and described in the deposited books of reference and specified in Part II. of the schedule to this Act: Provided that it shall not be lawful for the Company to enter upon, take, use, or otherwise interfere with, either temporarily or permanently, the tramway or ballast siding numbered on the deposited plans 4, in the parish of Eastbourne, or any lands situate and being within fifteen feet on either side of the centre of such tramway or ballast siding, without the previous consent in writing of the Most Noble William Duke of Devonshire, and during the continuance of any lease thereof to the London, Brighton, and South Coast Railway Company of that company under their common seal. Power to take certain lands.

30. Subject to the provisions of this Act, the Company may from time to time, on the lands described in Part II. of 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, main 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 erect gas-works, &c. on lands, in Part II. of schedule.

31. The Company, as they from time to time think fit, may Power to supply gas
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fittings, &c.
for heating
and other
purposes.

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

Power to
take licenses.

32. 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.

Period for
compulsory
purchase of
lands.

33. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing thereof.

Pressure of
gas.

34. All gas supplied by the Company to any consumer of gas shall be supplied at such pressure from midnight to sunset as to balance 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.

Quality of
gas.
Testing
place.

35. The prescribed number of candles shall be fourteen.

36. The existing testing place of the Company at their present works shall be deemed to be the prescribed testing place for the

purpose of the twenty-eighth section of the Gasworks Clauses Act, 1871. A.D. 1880.

37. 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. Burner.

38. No lands shall be used by the Company for the purpose of manufacturing gas or residual products except the lands mentioned in the schedule to this Act. Gas not to be manufactured except on certain lands.

39. 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. Interest to be paid on money deposited as security for gas meter, &c.

40. All costs, charges, and expenses of and incidental to the preparing, applying for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company. Expenses of Act.

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SCHEDULE referred to in the foregoing Act.

PART I.

Lands belonging or reputed to belong to the Company at the passing of this Act, and being 5 acres or thereabouts in extent, upon which the existing gasworks of the Company have been erected, situate in the parish of Willingdon, in the county of Sussex.

PART II.

LANDS TO BE ACQUIRED BY THE COMPANY UNDER THE POWERS OF THE FOREGOING ACT.

A piece or parcel of land situate in the parish of Eastbourne, in the county of Sussex, adjoining and on the western side of the existing gasworks of the Company, and numbered 136 on the 25-inch Ordnance map of the said parish of Eastbourne, and belonging or reputed to belong to the Most Noble William Duke of Devonshire, and bounded on the northward and eastward sides by a certain ditch, which is there the boundary between the parishes of Willingdon and Eastbourne, on the westward sides by two fields belonging or reputed to belong to the said Duke of Devonshire, and numbered 131 and 135 respectively on the said Ordnance map, and on the southward side by two brickfields belonging or reputed to belong to the said Duke of Devonshire, and numbered 139 and 141 respectively on the said Ordnance map.