CHAPTER xcvi.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Falkirk Corporation Gas. [3rd August 1910.]

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WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament:

62 & 63 Vict. c. 47.

Be it therefore enacted by the King'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:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Falkirk Corporation Gas Order Confirmation Act 1910.

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SCHEDULE.

FALKIRK CORPORATION GAS.

Provisional Order to authorise the provost magistrates and councillors of the burgh of Falkirk to raise further money for their gas undertaking and to confer on them further powers in relation thereto and for other purposes.

WHEREAS by the Falkirk Corporation Gas Act 1894 (herein-after called "the Act of 1894") the commissioners of the burgh of Falkirk acting under the Burgh Police (Scotland) Act 1892 now the provost magistrates and councillors (herein-after referred to as "the Town Council") of the burgh of Falkirk (herein-after referred to as "the burgh") were authorised to erect construct and maintain gasworks and to supply gas to the burgh and districts and places adjacent thereto as defined in the said Act:

And whereas under the provisions of the Act of 1894 the Town Council acquired by purchase the undertaking of the Falkirk Joint Stock Gas Company Limited and further acquired certain lands therein described for the erection of new gasworks:

And whereas the Town Council were authorised by the Act of 1894 to borrow money not exceeding one hundred and twenty thousand pounds for the purposes of their gas undertaking and for the construction of new gasworks and for the purchase of lands:

And whereas by the Falkirk Corporation Gas and Burgh Extension Act 1900 (herein-after called "the Act of 1900") the Town Council were amongst other things authorised to purchase the lands therein described for the construction of new gasworks and to construct gasworks thereon and to sell and dispose of the lands acquired by them for gasworks purposes under the Act of 1894 and to discontinue remove sell and dispose of the then existing gasworks and property of the Town Council:

And whereas by the Act of 1900 the Town Council were authorised to borrow further money not exceeding eighty thousand pounds for the construction of the new gasworks and for the general purposes of their gas undertaking:

And whereas the Town Council have constructed new gas-works on the lands acquired under the Act of 1900 and from the said works are supplying gas to the burgh and the districts and places adjacent:

And whereas the borrowing powers of the Town Council for and in respect of their gas undertaking are exhausted and they have incurred a capital expenditure of upwards of five thousand pounds in excess of the aggregate amount of such borrowing powers:

And whereas it is expedient that the Town Council should be authorised to borrow further moneys for the purposes of and in connexion with their gas undertaking:

And whereas it is expedient that the Town Council should be authorised to charge differential rates for the supply of gas and to reduce the illuminating power of gas supplied by them and that further provision should be made for testing such illuminating power:

And whereas it is expedient that the Town Council should be authorised to allow discounts or abatements for prompt payment of accounts and also to large consumers:

And whereas it is expedient to enlarge the powers of the Town Council with respect to the laying and maintenance of main and service pipes:

And whereas it is expedient that the further powers hereinafter contained should be conferred on the Town Council:

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

Short and collective titles.

1. This Order may be cited as the Falkirk Corporation Gas Order 1910 The Falkirk Corporation Gas Act 1894 and the Falkirk Corporation Gas and Burgh Extension Act 1900 and this Order may be cited together as the Falkirk Corporation Gas Acts 1894 to 1910.

Commencement of Order.

2. This Order shall commence and have effect at and from the date of the passing of the Act confirming the same which

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date is herein-after referred to as "the commencement of this Order."

Incorporation of Acts.

3. The following Acts or parts of Acts so far as the same are respectively applicable for the purposes of and are not inconsistent with and not expressly varied by this Order are hereby incorporated with this Order (that is to say):—

The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the Town Council except clauses 84 86 and 87;

The Gasworks Clauses Act 1847 and the Gasworks Clauses Act 1871 with the exceptions specified in the Act of 1894.

Interpretation.

4. The several words and expressions to which by the Act of 1894 as amended by the Act of 1900 and the Acts incorporated therewith meanings are respectively assigned shall when used in this Order and subject to the provisions of this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction and subject to the following provisions (that is to say):—

"The Town Council" means the provost magistrates and councillors of the burgh;

"The Town Councils Act" means the Town Councils (Scotland) Act 1900;

"The gas undertaking" means the gas undertaking of the Town Council.

Power to borrow.

5. The Town Council may from time to time in addition to any sums they were authorised to borrow under the Act of 1894 and the Act of 1900 borrow on mortgage or otherwise any sums required for the general purposes of the gas undertaking not exceeding fifty-five thousand pounds and may make and grant mortgages or other securities of the several rates rents and charges and other revenues to be levied and received by the Town Council under the provisions of the Act of 1894 and the Act of 1900 and this Order in security of the money so borrowed and interest thereon and any sums so to be borrowed may be borrowed on terms of the repayment thereof by way of instalment annuity or otherwise Provided always—

(1) That from and after the commencement of this Order the sums required to be set apart as a sinking fund for repayment of moneys borrowed under the powers

of the Act of 1894 and the Act of 1900 shall not be less than one and a half per centum per annum on the amount for the time being borrowed:

(2) That the sum to be set apart as a sinking fund for repayment of moneys borrowed under the powers of this Order shall be not less than two per centum per annum on the amount for the time being borrowed:

(3) That in the event of repayment of any moneys borrowed under the powers of the said Acts or this Order being made by way of instalment or annuity the annual amount of such instalment or annuity shall be sufficient to pay off the moneys so borrowed within a period from the date of borrowing not exceeding the period within which full repayment would be provided by way of sinking fund in terms of the said Acts and this Order.

Application of Acts of 1894 and 1900.

6. Subject to the provisions of this Order the provisions of the Act of 1894 and the Act of 1900 with respect to the security for money borrowed and sinking fund and the forms of mortgage transfers and discharge and the repayment of money borrowed and the guarantee rate and the appointment of a judicial factor shall be and are hereby made applicable to the money to be borrowed under this Order.

Reserve fund.

7. In the year ending the fifteenth May one thousand nine hundred and eleven and in every subsequent year the Town Council shall for the purposes of and in connexion with the reserve fund authorised by subsection (4) of section 29 of the Act of 1894 contribute to the said fund from the revenues of the gas undertaking a sum not less than an amount calculated at the rates herein-after mentioned on every thousand cubic feet of gas sold in each year (that is to say):—

(1) When the price of gas sold for lighting purposes does not exceed three shillings and threepence per thousand cubic feet the said contribution shall be at a rate not less than twopence:

(2) When the price of gas sold for lighting purposes exceeds three shillings and threepence but does not exceed three shillings and sixpence per thousand cubic feet the said contribution shall be at a rate not less than three halfpence:

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(3) When the price of gas sold for lighting purposes exceeds three shillings and sixpence per thousand cubic feet the said contribution shall be at a rate not less than one penny.

The said reserve fund shall in addition to the purposes mentioned in the said subsection be applicable towards defraying the cost of extensions of the undertaking but notwithstanding anything contained in the said subsection shall not be applicable towards the cost of renewals of meters and stoves.

Town Council may re-borrow.

8. If after having borrowed the sums of money by this Order authorised or any part thereof the Town Council shall pay off the same or any part thereof otherwise than by means of instalments annuity or the sinking fund or by means of the proceeds of any lands sold by them it shall be lawful for the Town Council again to borrow the amount so paid off upon the same securities as those upon which the moneys so paid off were secured and so from time to time Provided that all moneys so borrowed by the Town Council shall for the purpose of repayment be deemed part of the sum originally borrowed by them and shall be repaid within the period prescribed for the repayment of the money in lieu of which such re-borrowing has been made.

Priority of existing mortgages.

9. All mortgages assignations or other securities on the rates rents charges and other revenues leviable and receivable by the Town Council granted by the Town Council in pursuance of the powers and provisions of the Act of 1894 and the Act of 1900 before and subsisting at the commencement of this Order shall during the continuance of such mortgages assignations or securities have priority over any mortgages assignations or securities on the same rates rents charges and other revenues of the Town Council granted after the commencement of this Order Provided that all securities hereafter granted by the Town Council for money borrowed or raised for the gas undertaking shall rank together pari passu without preference or priority the one over the other And all mortgages granted by the Town Council after the commencement of this Order shall contain an endorsation to that effect.

Protection of lender from inquiry.

10. A person lending money to the Town Council shall not be bound to inquire as to the observance by them of any provision of this Order or be bound to see to the application or be answerable

for any loss misapplication or non-application of such money or of any part thereof.

Application of money borrowed.

11. All moneys borrowed by the Town Council under this Order other than money borrowed for current annual expenditure shall be applied only to purposes to which capital is properly applicable.

Illuminating power.

12.—(1) The prescribed number of candles shall not be less than fourteen.

(2) The quality of the gas supplied by the Town Council shall with respect to its illuminating power be such as to produce at the testing-place when burned at the rate of five cubic feet per hour a light equal in intensity to the light produced by fourteen sperm candles of six to the pound each consuming one hundred and twenty grains of sperm per hour and shall be in all respects in accordance with the provisions of the Gasworks Clauses Act 1871.

(3) For testing the illuminating power of the gas the burner to be uséd shall be that known as the Metropolitan Argand No. 2 the photometer shall be the bar photometer or the table photometer the standard light shall be that supplied by Harcourt's ten-candle pentane lamp and in making the test the burner shall be so used as to obtain from the gas when burned at the rate aforesaid the greatest amount of light Provided that the Board of Trade may on the application of the Town Council approve of the use of any other burner photometer or standard light which may appear to the Board to be equally or more suitable for the testing.

(4) The Town Council shall within three months after the commencement of this Order provide all the apparatus required by this Order for the testing of gas and shall at all times keep the same in proper order and repair.

(5) The method of reporting periodical tests shall be such as to carry forward the average of the previous tests in the following manner namely the test made on any one occasion shall be added to the tests made on the two previous occasions and the average of the three shall be reported as being the illuminating power so ascertained.

(6) All gas supplied by the Town Council to any consumer of gas shall be supplied at such pressure as to balance a column

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of water not less than eighth-tenths of an inch in height at the main or as near as may be to the junction therewith of the service pipe supplying the consumer.

(7) Any gas examiner appointed under the Gasworks Clauses Act 1871 may for the purposes of this Order subject to the terms of his appointment at the testing-place or at any public lamp as and when he thinks fit test the pressure at which the gas is supplied The Town Council shall afford to the examiner all reasonable facilities for making the test.

(8) No penalty shall be incurred by the Town Council for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was produced by any circumstance beyond the control of the Town Council Provided that the want of sufficient funds shall not be held to be a circumstance beyond the control of the Town Council.

(9) In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter The amount of the allowance to be made to or of the surcharge to be made upon the consumer by the Town Council shall be paid by or to the Town Council to or by the consumer as the case may be and shall be recoverable in the like manner as gas charges are recoverable by the Town Council.

(10) Section 21 (Pressure of gas) section 22 (Quality of gas) and section 23 (Burner) of the Act of 1894 are hereby repealed so far as inconsistent with the provisions of this Order.

Differential charges.

13. The Town Council may notwithstanding anything to the contrary in the Act of 1894 or the Act of 1900 or in any Act incorporated therewith charge within any part of their limits of gas supply differential rates as between gas supplied and used for private lighting purposes and gas supplied and used for any other purposes Provided that the rate charged for gas supplied for such other purposes shall not in any case exceed the rate charged for gas supplied for private lighting purposes and may be agreed between the Town Council and any person or persons

requiring such supply having regard to the times and periods of supply and the quantity used and shall be the same to all persons under like circumstances.

Discounts.

14. The Town Council may if they think fit allow discounts or rebates to consumers of gas in consideration of prompt payment of gas charges not exceeding in any case ten per centum and in addition thereto or irrespective thereof they may if they think fit allow discounts or rebates to large consumers not exceeding in any case fifteen per centum Provided that all discounts or rebates shall be of equal amount under like circumstances to all consumers Provided also that notice of the effect of this enactment shall be endorsed on every demand note for gas charges.

As to laying and maintenance of pipes.

15.—(1) Notwithstanding anything contained in section 11 of the Gasworks Clauses Act 1871 the cost of laying and maintaining so much of any service pipe as may be laid under any street (including the footway) may be defrayed by the Town Council.

(2) Section 7 of the Gasworks Clauses Act 1847 shall for the purposes of the Falkirk Corporation Gas Acts 1894 to 1910 extend to and include any main or service pipe whether laid by or belonging to the Town Council or the owners or occupiers of any lands.

As to signing of deeds &c.

16. All deeds and documents connected with the gas undertaking shall be executed and signed in accordance with the provisions of the Town Councils Act.

Costs of Order.

17. All costs charges and expenses of and incident to the preparing for and obtaining and confirming this Order or in relation thereto shall be paid by the Town Council out of the money authorised to be borrowed or the rates and assessments to be levied by them and the money received by them under the powers of the Acts of 1894 and 1900 or this Order or any of them and if paid out of borrowed money the same shall be repaid within five years from the commencement of this Order.

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