CHAPTER xiii.

A.D. 1875.

An Act to empower the Heckmondwike Gas Company to alter and extend their existing Works; to construct new Works, and to acquire additional Lands for the same; to raise additional Capital; and for other purposes.

[13th May 1875.]

25 & 26 Vict. c. xix.

WHEREAS by "The Heckmondwike Gas Act, 1862," the Heckmondwike Gas Company (in the said Act and in this Act referred to as "the Company") was incorporated for the purpose of making and supplying gas in the townships of Heckmondwike and Liversedge, in the parish of Birstal in the West Riding of the county of York:

And whereas by the said Act the share capital of the Company was fixed at twenty-one thousand pounds, and the Company was authorised in the manner and subject to the conditions by the said Act prescribed to borrow on mortgage any sum or sums of money not exceeding in the whole the sum of three thousand pounds:

And whereas by the said Act it was provided that in respect of one half of the amount of such share capital, which amount represented the amount declared by the said Act to have been expended previous to the passing of the same upon the works and undertaking by the said Act vested in the Company, the Company should issue one thousand four hundred shares of the value of five pounds each, and might in addition create and issue seven hundred shares of five pounds each, and that the Company should distribute such shares respectively amongst the persons in the manner and subject to the conditions in the said Act mentioned, and that in respect of the said last-mentioned seven hundred shares the amount of profit from time to time divisible should not exceed the rate of four pounds per centum per annum upon the amount of such shares:

And whereas the Company have issued and distributed the said one thousand four hundred shares and also the said seven hundred shares of five pounds each:

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And whereas for the purpose of raising the remaining half of the said share capital, the Company, in pursuance of the provisions of the said Act, have issued two thousand one hundred shares of five pounds each, and the same have been fully paid up; and in respect of any such last-mentioned shares the amount of profits from time to time divisible is by the said Act limited to the rate of seven pounds ten shillings per centum per annum on the amount of such shares; and it is provided that no deficiency in the profits of the Company for any year to pay that amount of dividend in full shall be made good out of subsequently accruing profits, except such as shall have accrued within three years thereafter:

And whereas the Company have borrowed the said sum of three thousand pounds, and have expended for the purposes of their undertaking all the moneys which by the said Act they were authorised to raise and borrow:

And whereas since the passing of the said Act the demand for gas within the said townships of Heckmondwike and Liversedge has increased and is increasing, and for the purpose of enabling the Company to meet such demand it is expedient that the works of the Company should be increased and improved, and that the Company should be authorised to construct additional works, and for such purpose to acquire lands in the manner and subject to the conditions by this Act prescribed:

And whereas it is expedient for the purposes aforesaid to authorise the Company to divert a certain part of the footpath leading from Union Street in Heckmondwike to Millbridge in the manner and subject to the conditions in this Act contained:

And whereas it is expedient that the Company should be required to supply gas of a higher illuminating power than that prescribed by the said Act, and that the said Act should be amended:

And whereas for the purposes aforesaid it is expedient that the Company be authorised to raise additional capital, and that with respect thereto provisions such as are in this Act contained should be made:

And whereas plans of the lands which may be taken under the powers of this Act, and also a book of reference thereto containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of such lands, and also a plan of the proposed diversion of the footpath which may be diverted under the powers of this Act, were duly deposited with the clerk of the peace for the West Riding of the county of York, at his office at Wakefield in the said county, and with the parish clerk of the said parish of Birstal, at his residence, and the same are in this Act referred to as "the deposited plans and book of reference:"

And whereas the objects of this Act cannot be attained 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 consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Heckmondwike Gas Act, 1875," and "The Heckmondwike Gas Act, 1862," and this Act may be cited together for all purposes as "The Heckmondwike Gas Acts, 1862 and 1875."

Construction of Act.

2. "The Heckmondwike Gas Act, 1862," as amended by this Act, and this Act shall be construed together as one Act.

Limits of Act.

3. The limits of this Act with respect to the supply of gas shall be the same as the limits of "The Heckmondwike Gas Act, 1862," that is to say, the townships of Heckmondwike and Liversedge, in the parish of Birstal in the West Riding of the county of York.

Provisions of certain general Acts incorporated.

4. So far as the same relate to the powers conferred by this Act, the provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the several matters following; (that is to say,)

The distribution of the capital hereby authorised into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for nonpayment of calls;

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

The consolidation of shares into stock;

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

The making of dividends;

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

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

And Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Gasworks Clauses Act, 1847," and "The Gasworks Clauses Act, 1871;"

are, except where expressly varied by this Act, incorporated with and form part of this Act, and the provisions of "The Gasworks

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Clauses Act, 1871," shall apply to the undertaking of the Company under "The Heckmondwike Gas Act, 1862," as if the same had been authorised by this Act.

Interpretation of terms.

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

Repeal of sections 46, 63, 64, 65, and 66 of recited Act.

6. Sections 46, 63, 64, 65, and 66 of "The Heckmondwike Gas Act, 1862," shall be and the same are hereby repealed; provided always, that such repeal shall not affect—

(1.) Anything duly done or suffered under any enactment hereby repealed;

(2.) Any right or privilege acquired or any liability incurred under any enactment hereby repealed;

(3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence against any enactment hereby repealed, or any legal proceedings with respect to such penalty, forfeiture, or punishment.

Acquisition of Lands.

Power to take land.

7. Subject to the provisions of this Act, the Company may enter upon, take, and use, in addition to the lands now held by them and described in Part I. of the Schedule to this Act annexed, the lands delineated on the deposited plans and described in Part II. of the Schedule to this Act annexed, or such part thereof as they may require for the purposes of this Act.

Period for compulsory purchase of lands.

8. 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 of this Act.

Additional land.

9. The Company may from time to time purchase by agreement, and may hold for any of the purposes of this Act, any land not exceeding two acres, in addition to the lands shown on the deposited plans and described in the Schedule to this Act annexed; but no lands shall be used by the Company for the purpose of manufacturing gas or residual products except the lands described in the Schedule to this Act.

Power to sell lands not wanted for undertaking.

10. The Company may sell and dispose of any lands now vested in them, or which may be acquired by them under the authority of this Act, and which they may not require for the purposes of their undertaking, upon such terms and subject to such conditions in every respect as they shall from time to time think fit.

Construction of Works.

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Power as to construction and maintenance of gasworks.

11. Subject to the provisions of this Act, the Company may from time to time maintain, alter, improve, enlarge, extend, and renew or discontinue their existing gasworks upon the lands on which the same are erected, and they may also upon the lands described in the Schedule to this Act erect, lay down, provide, and from time to time maintain, alter, improve, enlarge, extend, and renew, or discontinue additional and other gasworks, retorts, gasometers, receivers, drains, sewers, mains, pipes, meters, lamps, lamp posts, burners, stop cocks, machinery, and other works and apparatus and conveniences, and may do all such acts as they may think proper for making and storing gas, and for supplying gas within the limits of this Act, and may make, store, and supply gas accordingly, and may manufacture, sell, provide, supply, and deal in coal, coke, tar, pitch, asphaltum, ammoniacal oil, and all other products or residuum of any materials employed in or resulting from the manufacture of gas, and also meters, fittings, tanks, pipes, or 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.

Power to stop up foot path.

12. The Company may within the limits shown on the deposited plans make a footpath in substitution for so much of the existing footpath leading from Union Street in Heckmondwike to Millbridge as is situate between Union Street aforesaid and Rhodes Street, in the township of Liversedge, and when and so soon as such footpath shall be completed they may stop up and extinguish so much of the existing footpath as lies within the limits aforesaid, and thereupon all rights of way over such part of the said footpath so stopped up shall cease to be exercised, and shall be extinguished.

In case any difference shall arise as to the mode of making such footpath, or as to the completion of the same, or as to the sufficiency thereof, the same shall be determined by two justices.

Differences with railway and other companies.

13. If any difference arise between the Company and any railway, canal, or other company whose land or works the Company have power, under the authority of this Act, to cross for the purpose of meeting the demands for gas within the limits of this Act, as to the mode of laying down, repairing, altering, or enlarging pipes, or as to the facilities to be afforded for the same, the difference shall be settled by an engineer to be appointed by the Board of Trade at the request of either party.

Quality of Gas.

Quality of gas.

14. The quality of gas supplied by the Company shall, with respect to its illuminating power, be such as to produce a light

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equal in intensity to the light produced by fourteen sperm candles, and shall in all respects be in accordance with the provisions of "The Gasworks Clauses Act, 1871."

Pressure of Gas.

Pressure of gas.

15. All gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance from midnight to sunset a column of water not less than six tenths in height, and to balance from sunset to midnight a column of water not less than eight tenths in height, at the main, as near as may be to the junction therewith of the service pipe supplying each consumer.

Testing Gas.

Testing of gas.

16. The Company within three months of the passing of this Act shall cause to be provided at their works a testing place with apparatus therein, according to the provisions of "The Gasworks Clauses Act, 1871;" and the burner to be used for testing the gas shall be a Sugg's "London" Argand No. 1, with a six-inch by one-and-three-quarter-inch glass chimney, and if at any time the gas flame tails over the top of the glass a six-inch by two-inch chimney shall be used.

Duties of gas examiner.

17. Any gas examiner appointed under "The Gasworks Clauses Act, 1871," may from time to time, subject to the terms of his appointment, at such testing place or elsewhere, as and when he thinks fit, test the pressure at which the gas is supplied, and for that purpose may 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.

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

18. 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 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.

Additional Capital.

Power to raise additional capital.

19. In addition to the capital already authorised to be raised by the Company, they may from time to time—

1. Raise any sum not exceeding in the whole forty-two thousand pounds by the issue of new shares or new stock, either

ordinary or preference, or partly ordinary and partly preference, as they may think proper, but not less than the full nominal amount of any such share or stock shall be payable or paid in respect thereof; and

2. Borrow on mortgage any sum not exceeding in the whole ten thousand five hundred pounds at the times and subject to the restrictions herein-after contained; that is to say, when ten thousand five hundred pounds of the amount hereby authorised to be raised by additional shares or additional stock has been issued and accepted, and one half thereof has been paid up and certified as herein-after mentioned, the sum of two thousand six hundred and twenty-five pounds; and a similar sum not exceeding two thousand six hundred and twenty-five pounds when a further sum of ten thousand five hundred pounds of the amount hereby authorised to be raised by additional shares or additional stock has been issued and accepted, and one half thereof shall have been paid up and certified as herein-after mentioned; and a similar sum not exceeding two thousand six hundred and twenty-five pounds when a further sum of ten thousand five hundred pounds of the amount hereby authorised to be raised by additional shares or additional stock has been issued and accepted, and one half thereof shall have been paid up and certified as herein-after mentioned; and a further sum not exceeding two thousand six hundred and twenty-five pounds when the remaining ten thousand five hundred pounds of the said amount hereby authorised to be raised by additional shares or additional stock has been issued and accepted, and one half thereof shall have been paid up and certified as herein-after mentioned; but no part of any such sum shall be borrowed until shares for so much of the portion of additional capital in respect whereof the borrowing powers are to be exercised as is to be raised by means of shares are issued and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that shares for the whole of such portion of capital have been 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 portion of 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 portion of additional capital in respect whereof the

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borrowing powers are to be 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 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, their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Limit of dividend.

20. The Company shall not in any year make out of their profits any larger dividend on the share capital authorised by 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 up of such capital, or any part thereof, as may be issued as preference capital, and no deficiency in the profits of the Company for any year to pay that amount of dividend in full shall be made good out of subsequently accruing profits, except such as shall have accrued within three years thereafter.

Dividends on different classes of stock or shares to be paid rateably.

21. In case in any year the net revenue 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 stock or share in the capital of the Company, a rateable deduction shall be made in the dividend of each class.

Amount and issue of shares.

22. Any shares, whether ordinary or preference, issued under this Act shall be of a nominal amount of not less than ten pounds, and the Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person or corporation accepting the same, unless and until a sum not being less than one half of the amount of such share is paid in respect thereof.

Calls.

23. 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.

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As to votes of proprietors of such shares.

24. The proprietors of any shares or stock to be created and issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented by such shares or stock would have entitled them to if the same had been original shares or stock of the Company; and the proprietors of such new shares or stock shall, except as in this Act specially provided, be entitled to the same dividends and the same rights and privileges in all respects, and be subject to the same obligations and liabilities as the proprietors of the original shares or stock of the Company.

As to conversion of borrowed money into capital.

25. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or any part thereof, by the creation of shares or stock instead of borrowing, or to convert into capital the amount borrowed under the provisions of this Act, unless in either case all dividends upon the shares or stock, whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum.

Priority of existing mortgages.

26. Every mortgage granted by the Company under "The Heckmondwike Gas Act, 1862," shall have priority over all mortgages and debenture stock granted and issued under this Act.

Power to create debenture stock.

27. 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 after the passing of this Act 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 over other debts.

28. All money 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, Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock; nor shall anything in this section contained affect any claim for land taken, used, or occupied by the Company for the purposes of

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the Company's undertaking and works or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application of money raised under this Act.

29. All moneys raised under this Act shall be applied to the purposes of the undertaking authorised by "The Heckmondwike Gas Act, 1862," and this Act, and not otherwise.

Miscellaneous.

Saving of existing contracts, &c.

30. Nothing in this Act contained shall alter, vary, or affect any contract or agreement duly made or any liability incurred before the passing of this Act by the Company.

Expenses of Act.

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

SCHEDULE.

PART I.

The lands upon which the works of the Heckmondwike Gas Company now exist, situate at or near Mill Bridge, in the township of Liversedge, in the parish of Birstal, in the West Riding of the county of York, and bounded on the north partly by property belonging or reputed to belong to George Burnley and others, and partly by property belonging or reputed to belong to Samuel Preston, on the south by property belonging or reputed to belong to Fairfax Kelley and Sons, on the west by property belonging or reputed to belong to Samuel Cooke, and on the east by land belonging or reputed to belong to George Burnley and others.

PART II.

A piece or parcel of land, situate in the township of Liversedge, in the parish of Birstal, in the West Riding of the county of York, containing two thousand six hundred and ninety-seven square yards or thereabouts, bounded on the north by the Wakefield and Halifax Road, on the east by the centre of Rhodes Street, on the south partly by other lands and hereditaments belonging or reputed to belong to the Company, and partly by the centre of an intended street five yards wide, and on the west by Gas Street.

A piece or parcel of land, situate in the township of Liversedge aforesaid, containing one thousand six hundred and fifty-seven square yards or thereabouts, bounded on the north by the centre of the said intended street, on the east by the centre of Rhodes Street aforesaid, and on the south by a footpath leading from Union Street, in Heckmondwike, in the parish of Birstal aforesaid, into the Leeds and Huddersfield Road at Millbridge in the same parish, and on the west by the property or reputed property of the Company.

A piece or parcel of land, situate in the township of Liversedge aforesaid, containing three thousand seven hundred and thirty-three square yards or thereabouts, bounded on the north by the centre of an intended street ten yards wide, on the south by the centre of Liversedge Beck, on the east by property belonging or reputed to belong to Sir Charles Henry Firth and Mr. John Sumner, and on the west by an intended street to be called Wormald Street.

A plot or parcel of land, situate in the township of Liversedge aforesaid, containing one thousand seven hundred and thirty-two square yards or thereabouts, bounded on the north by the centre of the said intended street ten yards wide, on the east by the centre of the said intended street to be called Wormald Street, on the south by the centre of the Liversedge Beck, and on the west by the centre of Rhodes Street aforesaid.

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