CHAPTER clxxviii.

An Act to confer further powers upon the mayor aldermen and burgesses of the borough of Middlesbrough in relation to the supply of gas. [2nd August 1898.]

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WHEREAS the mayor aldermen and burgesses of the borough of Middlesbrough in the North Riding of the county of York (herein-after called "the Corporation") are the owners of the gasworks by which the borough of Middlesbrough (herein-after called "the borough") and the township of Acklam are supplied with gas:

And whereas it is expedient that the Corporation be empowered to enlarge and extend their present gasworks and to acquire additional land and to borrow further moneys for that purpose:

And whereas it is expedient that the Corporation be empowered to stop up as a public highway the part of Grey Street within the borough herein-after described and that such further powers be conferred upon the Corporation and provisions made as are contained in this Act:

And whereas estimates have been prepared by the Corporation for the purchase of land and for the execution of the works by this Act authorised such purposes being permanent works within the meaning of the two hundred and thirty-fourth section of the Public Health Act 1875 and such estimates amount to one hundred and fifty thousand pounds:

And whereas a plan of the lands required or which may be taken compulsorily by the Corporation for the purposes of this Act and a book of reference to the said plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerk of the peace for the North Riding of the county of York and are herein-after referred to as "the deposited plan and book of reference":

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And whereas an absolute majority of the whole number of the Council at a meeting held on the fourteenth day of December one thousand eight hundred and ninety-seven after ten clear days' notice by public advertisement of the meeting and of the purpose thereof in the Middlesbrough and Stockton Evening Telegraph a local newspaper published and circulating in the borough such notice being in addition to the ordinary notices required for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should be charged to and paid out of the district fund of the borough and the revenue of the gas undertaking of the Corporation or either of them:

And whereas such resolution was published twice in the said Middlesbrough and Stockton Evening Telegraph and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act:

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:—

Short title.

1. This Act may be cited as the Middlesbrough Corporation (Gas) Act 1898.

Incorporation of Acts.

2. The Lands Clauses Acts are except where expressly varied by this Act incorporated with and form part of this Act and in construing the said Acts for the purposes of this Act the expression "the Promoters of the undertaking" shall mean the Corporation and the expression "the special Act" shall mean this Act.

Interpretation.

3. In this Act unless the context otherwise require words and expressions to which meanings are assigned by the Acts incorporated herewith or which have in those Acts special meanings have the same respective meanings.

Power to acquire and appropriate and use lands for purposes of Act.

4. Subject to the provisions and for the purposes of this Act the Corporation may purchase and take by agreement and use the lands first and secondly described in the schedule to this Act and may appropriate and use the lands belonging to them thirdly and fourthly described in the said schedule and may enter upon take and use the lands shown upon the deposited plan and described in the deposited book of reference being the lands fifthly described in the said schedule and the said lands respectively when acquired or appropriated by or vested in the Corporation and all works and buildings to be erected thereon shall be held by the Corporation as and for the purposes of and be deemed part of their gas undertaking and the purchase by the Corporation of any of the said lands first secondly and fifthly described in the said schedule before the passing of this Act is hereby ratified and shall be carried into effect.

Power to stop up part of Grey Street.

5. The Corporation may at any time after the passing of this Act with the consent of the owners of the properties abutting on each side thereof stop up all that part of the public street in the borough called Grey Street which is situate between Lower Commercial Street and Vulcan Street and from and after such stopping up all rights of way over the same shall be extinguished and the site thereof but not the minerals under the same shall be vested in the Corporation for the purposes of this Act and may be exchanged by them for other lands as herein-after provided.

Correction of errors &c. in deposited plan and book of reference.

6. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or described in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices for the correction thereof and if it appear to such justices that such omission misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of such omission misstatement or wrong description and such certificate shall be deposited with the clerk of the peace for the North Riding of the county of York and shall be kept by the said clerk of the peace with the other documents to which the same relates and therupon such plan and book of reference shall be deemed to be corrected according to such certificate and the Corporation may take the lands and make the works in accordance with such certificate.

Copies of deposited plan to be evidence.

7. Copies of the deposited plan and book of reference or of any alteration or correction thereof or extract therefrom certified to be correct by the said clerk of the peace which certificate such

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clerk of the peace shall give to all parties interested when required shall be received in all courts of justice or elsewhere as primâ facie evidence of the contents thereof.

Period for compulsory purchase of land.

8. The powers of the Corporation for the compulsory purchase of land for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Powers to enlarge and extend gas-works &c.

9. Subject to the provisions of this Act the Corporation may from time to time upon the lands first secondly and fifthly described in the schedule to this Act so soon as they have purchased or acquired the same and upon the lands belonging to them thirdly and fourthly described in the said schedule make erect maintain alter enlarge extend discontinue and renew additional gasworks and works for the manufacture storage and distribution of gas and for the manufacture storage conversion utilisation and distribution of the materials used in and about the manufacture of gas and residual products resulting from such manufacture and may from time to time manufacture store convert utilise and distribute gas and materials used in and about the manufacture of gas and residual products resulting from such manufacture.

Quality of gas supplied by the Corporation.

10. All gas supplied by the Corporation shall have an illuminating power of not less than fifteen candles which shall be the prescribed number for the purposes of the Gasworks Clauses Act 1871.

Power to Corporation to exchange certain lands.

11. The Corporation may exchange the land forming the site of the part of Grey Street authorised to be stopped up by them under the powers of this Act when so stopped up for the lands fifthly described in the schedule to this Act when acquired by them and may upon such exchange give to or receive from the owners of the last-mentioned lands any money for equality of exchange.

Power to acquire additional lands by agreement.

12. Subject to the provisions of this Act the Corporation may purchase and take by agreement but not otherwise and hold in addition to any other lands they are by any former Acts or this Act authorised to use for the purposes of gas supply any lands and hereditaments which they may from time to time require for the purposes of their gas undertaking not exceeding two acres in extent but the Corporation shall not create or permit a nuisance on any such lands.

Corporation not to manufacture gas or residuals

13. The Corporation shall not manufacture gas nor manufacture or convert any residual products resulting from the manufacture of gas on any lands acquired by them before or after the passing of

this Act except upon the lands they are expressly authorised by any former Act to use for the manufacture and storage of gas or the manufacture or conversion of residual products and the lands described in the schedule to this Act.

except on scheduled lands.

14. The Corporation shall not under the powers of this Act purchase or acquire in any city borough or other urban district or in any parish or part of a parish not being within an urban district ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" means mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

15. The Corporation may from time to time independently of any other borrowing power borrow at interest for the purpose of executing the powers of this Act any sum or sums of money not exceeding in the whole one hundred and fifty thousand pounds and for the purpose of paying the costs charges and expenses of this Act as defined by the section of this Act the marginal note whereof is "Costs of Act" the sum requisite for that purpose and for those purposes may mortgage the revenue of their gas undertaking and the district fund of the borough.

Power to borrow.

16. In calculating the amounts the Corporation may borrow under any other borrowing power any moneys they may borrow under the powers of this Act shall not be reckoned and the powers of the Corporation as to borrowing and reborrowing under this Act shall not be restricted by any of the provisions of the Public Health Acts.

Regulations of Public Health Acts not to apply to borrowing powers.

17. Sections two hundred and thirty-six to two hundred and thirty-nine of the Public Health Act 1875 shall extend and apply mutatis mutandis to and in relation to mortgages made under the powers of this Act.

Provisions as to mortgages.

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Periods for repayment of borrowed moneys.

18. All moneys borrowed by the Corporation under this Act except money borrowed for paying the costs charges and expenses of this Act shall be repaid within forty years from the date of borrowing the same and all moneys borrowed for paying those costs charges and expenses shall be repaid within ten years from the date of borrowing the same:

And such repayment shall be effected by equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund or partly by such instalments and partly by a sinking fund:

When the repayment shall be made by equal yearly or half-yearly instalments of principal and interest the instalment or instalments payable in each year together with the interest payable in such year in respect of the principal moneys shall in every year amount to the same sum Every such instalment shall be paid out of the revenue or fund on the security of which the principal moneys in respect of which it is so paid were borrowed:

When the repayment shall be made by means of a sinking fund the sinking fund shall be provided as follows:—

The Corporation in every year after the respective dates in that behalf by this section prescribed shall appropriate and set apart out of the revenue and fund on the security of which such moneys shall have been borrowed such equal annual sums as will with the accumulations thereof by way of compound interest at a rate not exceeding three per centum per annum be sufficient to pay off the whole of the principal moneys borrowed on such security within the periods by this Act prescribed:

The first payment by instalments or to the sinking fund as the case may be shall be made within one year from the thirty-first day of March next following the time of the borrowing of such moneys respectively:

Provided as follows:—

The yearly sums so to be appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money or any mortgage bond debenture debenture stock

corporation stock or other security (not including annuities or securities payable to bearer) authorised by or under any Act of Parliament passed or to be passed of any municipal corporation in Great Britain or of any other local authority within the thirty-fourth section of the Local Loans Act 1875 other than and excepting the Corporation and if and as often as the rate of interest by investment as aforesaid is not equal to the prescribed rate of accumulation any deficiency arising thereby shall be made good out of the revenue and fund which are liable to contribute to the sinking fund :

The Corporation may at any time apply the whole or any part of any sinking fund in or towards the repayment of moneys borrowed under the powers of this Act in such order and manner as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of such borrowed moneys are discharged a sum equal to the interest which would have been produced by the sinking fund or part thereof so applied at the rate per centum on which the annual payments to the sinking fund are based Provided also that whenever and so long as the value of the securities standing to the credit of the sinking fund shall be equal to the amount of the loan outstanding for repayment of which it was set aside the Corporation may in lieu of investing the said yearly income apply the same in payment of such interest and may during such periods discontinue the payment to the sinking fund of the yearly sums required to be so paid thereto.

Sinking fund may be adjusted in certain events.

19. If the Corporation out of the proceeds of the sale or disposition of lands or out of other moneys received on capital account other than borrowed moneys repay any principal moneys borrowed under the powers of this Act the payments to the sinking fund established under the provisions of this Act for the repayment of such principal moneys may be reduced to such extent and upon such terms as may be from time to time approved by the Local Government Board.

Annual return to Local Government

20. The borough accountant of the borough shall within twenty-one days after the expiration of each year during which any sum is required to be set apart by the Corporation for a sinking fund

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Board with respect to sinking fund.

or any instalment is required to be paid by the Corporation under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amounts which have been paid by instalment or invested or applied for the purpose of such sinking fund during the year next preceding the making of such return and the description of the securities upon which the same have been invested and also showing the purpose to which any portion of the moneys invested for such sinking fund and the interest thereof have been applied during the same period and the total amount (if any) remaining invested at the end of the year In the event of any wilful default in making such return the said borough accountant shall be liable to a penalty not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to pay any such instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act or any such other Act as aforesaid the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested or applied by the Corporation as part of the sinking fund and any such order may be enforced by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

The provisions of this section shall apply mutatis mutandis to appropriations and annual repayments.

Protection of lenders from inquiry.

21. A person lending money to the Corporation shall not be bound to inquire as to the observance by them of any provision of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof.

Power to reborrow.

22. The Corporation may from time to time borrow at interest on mortgage as aforesaid any money necessary for repaying any principal money borrowed under this Act on the same becoming repayable or for the paying off of any of such principal moneys as

they can reborrow at a lower rate of interest and so from time to time Provided as follows :—

The time for the repayment of any moneys so reborrowed shall not be extended beyond the unexpired portion of the terms respectively in that behalf prescribed :

For the purpose of repayment the moneys reborrowed and the moneys originally borrowed shall be deemed the same loan :

The Corporation shall not reborrow any moneys paid off by means of instalments or a sinking fund or out of the proceeds of the sale or disposition of land or other moneys received on capital account other than borrowed moneys.

Corporation not to regard trusts.

23. The Corporation shall not be bound to see to the execution of any trust whether express or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register book of the Corporation shall from time to time be a sufficient discharge to the Corporation in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Corporation have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register and the Corporation shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss misapplication or non-application of any such money.

Application of moneys borrowed.

24. All moneys borrowed by the Corporation under the powers of this Act shall be applied only to the purposes for which they are respectively authorised to be borrowed and to which capital is properly applicable.

Power to borrow under Local Loans Act 1875.

25.—(1) The Corporation may if they think fit borrow any moneys which they are by this Act authorised to borrow under the powers and subject to the provisions of the Local Loans Act 1875 by means of a loan or loans to be raised by the issue of debentures debenture stock or annuity certificates or partly in one way and partly in another Any moneys borrowed by the Corporation in manner by this section authorised shall be a charge upon and shall be paid out of the same fund and revenue as they would be charged upon and paid out of if raised by way of mortgage under this Act and such fund and revenue shall in each case be deemed to be the local rate as defined by the Local Loans Act 1875 Every such loan shall be discharged within the time prescribed in that behalf by this Act from the date of the original borrowing.

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(2) All sums paid into the sinking fund for the purpose of such discharge shall be invested or applied by the Corporation in the manner herein-before provided.

Saving priority of existing charges.

26. Nothing in this Act shall prejudicially affect any charge on the district fund or the revenue of the gas undertaking of the Corporation subsisting at the passing of this Act and every annuitant mortgagee or person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of the fund or revenue subject to such charge as if this Act had not been passed and all such charges created before the passing of this Act shall during the subsistence thereof have priority over any mortgage or charge granted under this Act on the said fund and revenue respectively.

Recovery of demands under fifty pounds.

27. Proceedings for the recovery of any demand not exceeding fifty pounds made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in the county court.

Justices not disqualified.

28. A person shall not be incapable of acting as a justice in any proceedings taken under the provisions of this Act by reason of his being a member of the Corporation or an annuitant stockholder or mortgagee of the Corporation or of his being liable to the payment of any gas rent to the Corporation but no person who is an annuitant stockholder or mortgagee of the Corporation shall so act if objection is taken by any party to the proceedings.

Costs of Act.

29. All the costs charges and expenses preliminary to and of and incidental to the preparing and obtaining of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the district fund of the borough or the revenue of their gas undertaking or out of moneys by this Act authorised to be borrowed by them for the purpose.

The SCHEDULE referred to in the foregoing Act.

Lands for Gasworks.

First A piece of land belonging or reputed to belong to the owners of the Middlesbrough Estate Limited containing by admeasurement two thousand eight hundred and thirty-eight square yards or thereabouts and bounded on or towards the north-east by the River Tees on or towards the south-east by the Cleveland Salt Works belonging or reputed to belong to Bolckow Vaughan and Company Limited on or towards the south-west by Vulcan Street and on or towards the north-west by the piece of land next herein-after described;

Secondly A piece of land belonging or reputed to belong to Sir Christopher Furness Westgarth and Company Limited containing by admeasurement two thousand seven hundred and thirty-nine square yards or thereabouts and bounded on or towards the north-east by the River Tees on or towards the south-east by the piece of land first herein-before described on or towards the south-west by Vulcan Street and on or towards the north-west by the premises next herein-after described;

Thirdly A piece of land forming the Corporation storeyard No. 2 containing by admeasurement five thousand nine hundred and sixty-eight square yards or thereabouts and bounded on or towards the north-east by the River Tees on or towards the south-east by the piece of land secondly herein-before described on or towards the south-west by Vulcan Street and on or towards the north-west in part by Ferry Road and in other part by the ferry landing works of the Corporation;

Fourthly A piece of land forming the Corporation storeyard No. 1 containing by admeasurement three thousand two hundred and eighty-three square yards or thereabouts and bounded on or towards the north-east by Vulcan Street on or towards the south-east by land and buildings belonging or reputed to belong to the Steel Strip and Nail Company Limited on or towards the south-west by Lower Commercial Street and on or towards the north-west by Ferry Road;

Fifthly A piece of land forming all that part of the Tees Engine Works belonging or reputed to belong to Sir Christopher Furness Westgarth and Company Limited which lies on the south-westerly side of an imaginary straight line drawn in continuation of the south-eastern side of the Corporation Gasworks to Lower East Street together with a strip of adjoining land forming one-half of the site of a public street formerly running from Gas Street to Lower East Street and containing together seven hundred and thirty-four square yards or thereabouts:

All which said lands and premises are situate in the borough of Middlesbrough in the North Riding of the county of York.

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