CHAP. v.

An Act for better supplying with Gas the borough of Newport and the parishes of Carisbrooke, Whippingham, and St. Nicholas, in the Isle of Wight in the county of Southampton; and for other purposes. [12th May 1870.] A.D. 1870.

WHEREAS the borough of Newport and the parishes of Carisbrooke, Whippingham, and St. Nicholas, in the Isle of Wight in the county of Southampton, are now supplied with gas from works situate upon the lands set forth in the schedule to this Act:

And whereas it would be to the public advantage that the said parishes should be supplied with gas by a company to whose undertaking the provisions of the "Gasworks Clauses Act, 1847," should be applicable, and the persons in this Act named in that behalf are desirous of being, and it is expedient that they should be, incorporated into a company for the purpose of affording such supply, and for the other purposes of this Act:

And whereas it is expedient that the company incorporated by this Act should be authorised to purchase by agreement the said lands and works, and the fixed plant and apparatus and goodwill of or belonging to or occupied with the said works:

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 for all purposes as "The Newport (Isle of Wight) Gas Act, 1870."

Provisions of general Acts herein named incorporated.

2. "The Companies Clauses Consolidation Act, 1845," parts one and three of "The Companies Clauses Act, 1863," as amended by "The Companies Clauses Act, 1869," "The Lands Clauses Consolidation Act, 1845," (except the clauses of that Act with respect to

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the purchase and taking of lands otherwise than by agreement,) "The Lands Clauses Consolidation Acts Amendment Act, 1860," "The Gasworks Clauses Act, 1847," and "The Companies Clauses Act, 1869," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and in this Act and the Acts and parts of Acts incorporated herewith the expression "the company" shall mean the company incorporated by this Act; the expression "the works" or "the gasworks" shall mean the gasworks and the works connected therewith by this Act authorised to be acquired, maintained, and enlarged and improved, or any part thereof; the expression "fiat in bankruptcy" shall mean and include any adjudication of bankruptcy, and any proceedings in bankruptcy by which any person may be declared or adjudged a bankrupt; and the expression "superior court" or "court of competent jurisdiction," or any other like expression, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute; and the expression "justice" or "justices" shall include any justice or justices of the peace for the county of Southampton acting for the division of the Isle of Wight, although the matter requiring the cognizance of such justice or justices may arise, partially or wholly, within the borough of Newport in the Isle of Wight.

Limits of Act.

4. The limits of this Act shall comprise and include the parishes and places following; that is to say,

The borough of Newport and the parishes of Carisbrooke, Whippingham, and St. Nicholas, in the Isle of Wight.

Company incorporated.

5. William Baron Mew, Robert Pinnock, and Arthur Harbottle Estcourt, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a Company for the purpose of manufacturing and supplying gas within the limits of this Act, and for doing all acts necessary for that purpose, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Newport (Isle of Wight) Gas Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Company may purchase existing gasworks.

6. The Company may by agreement purchase and acquire and may hold and enjoy the lands set forth in the schedule to this Act, and the works thereon, and the fixed plant, apparatus, and goodwill of or belonging to or occupied with the works, for the supply of the parishes and places aforesaid with gas, and may pay for the same either wholly or in part by shares, which shall be deemed for all purposes to have been bonâ fide subscribed for, issued, and accepted, and fully paid up.

Power to erect works, &c.

7. The Company may upon the pieces of land specified in the schedule to this Act, or either of them, or any part thereof, respectively, and subject to the provisions contained in this Act and the Acts incorporated herewith, maintain and use the existing gasworks, with all the necessary buildings, retorts, machinery, apparatus, and conveniences, and from time to time alter, enlarge, and improve the same and erect additional works, and may maintain, alter, remove, and renew existing mains and pipes within the limits to be supplied with gas, and lay down, maintain, alter, remove, and renew other mains and pipes, and do all such other acts as they may consider necessary or proper for supplying the inhabitants and all public and private buildings and all public and private lamps within the limits of this Act with gas, and may also manufacture or purchase and sell and contract for gas, and for the supply thereof, and demand and take rents and charges for the supply of gas, and may purchase and sell coal and lime, and other articles necessary for such manufacture, and may manufacture, sell, and dispose of coke, tar, gas, lime, ammoniacal liquor, and other residuary products arising from the manufacture of gas, and may take and hold licenses to use (but so as not to acquire exclusive rights thereto) patents or patent rights relating to the manufacture and distribution of gas, and may make or purchase, and sell or let for hire, gas meters, fittings, tubes, pipes, and other articles and things in any way connected with gasworks, or with the supply of gas to the consumers thereof, in such manner as the Company may think proper: Provided always, that it shall not be lawful for the Company to erect any works for the manufacture or storage of gas elsewhere than in or upon the said pieces of land specified in the said schedule or some part or parts thereof.

Existing contracts for public lights to remain in force.

8. All contracts and agreements now subsisting between the proprietors of the gasworks and the mayor, aldermen, and burgesses of the borough of Newport for the supply of gas to the public lamps within the said borough shall be binding on the Company from the time when they shall acquire such works.

Company liable for nuisance.

9. Nothing in this Act shall exonerate the Company from any indictment, action, or other proceeding for nuisance in the event of any nuisance being caused by them.

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Power to purchase additional lands.

10. The Company may purchase by agreement, for any purposes of their undertaking except the manufacture or storage of gas, any quantity of land not exceeding three acres, in addition to the lands which they are herein-before authorised to purchase.

Company may take easements over lands.

11. The Company may take by agreement for the purposes of their undertaking any easements (not being easements of water), rights, or privileges in, over, or affecting any lands which by this Act they are authorised to purchase or acquire, and the persons empowered by "The Lands Clauses Consolidation Act, 1845," respectively to sell and convey or release lands shall have full power to grant to the Company any such easement, right, or privilege, and if they shall so think fit in consideration of an annual rentcharge, and all provisions of the last-mentioned Act, and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," with respect to the purchase of lands by agreement, and to rentcharges, shall extend and apply to such easements, rights, and privileges, and to rentcharges granted for the same.

Capital.

12. The capital of the Company shall (subject to augmentation as herein-after mentioned) be twenty thousand pounds, and shall be divided into two thousand shares of ten pounds each.

Power to raise additional capital.

13. In addition to the said sum of twenty thousand pounds, and when the same shall have been fully paid up, it shall be lawful for the Company from time to time to raise, by the creation of new ordinary or preference shares, or by both of those modes, at the option of the Company, such further sum or sums as they may think proper, not exceeding in the whole ten thousand pounds.

Shares not to issue until one fifth paid up.

14. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

15. One fourth 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.

Limit of dividend on new capital.

16. The Company shall not in any year make out of their profits any larger dividend on the additional share capital of ten thousand pounds to be raised under the authority of this Act, in addition to the capital of twenty thousand pounds, than seven pounds in respect of every one hundred pounds actually paid up of such capital on ordinary shares, or six pounds in respect of every one hundred pounds actually paid up of such capital in preference shares.

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

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

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Power to borrow on mortgage.

18. The Company may, when ten thousand pounds, part of the capital of the Company, has been bonâ fide subscribed for, issued, and accepted, and one half thereof has been paid up, borrow on mortgage such sum or sums of money, not exceeding in the whole two thousand five hundred pounds, as may from time to time be authorised to be borrowed by order of a general meeting of the Company, and when each additional amount of two thousand pounds beyond the said amount of ten thousand pounds of the capital of the Company has been bonâ fide subscribed for, issued, and accepted, and one half of the amount thereof respectively has been paid up, the Company may borrow on mortgage such further sum or sums of money, not exceeding in the whole five hundred pounds, in respect of each such amount of two thousand pounds as may from time to time be authorised to be borrowed as aforesaid, but in none of the before-mentioned cases shall any part of the sum of two thousand five hundred pounds and five hundred pounds respectively be borrowed until the Company shall have proved to the justice who is to certify under the provisions of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that all the shares in respect of which the power to borrow two thousand five hundred pounds and five hundred pounds respectively hereby granted is then sought to be exercised have been issued and accepted, and that one half thereof has been paid up, and that no less than one fifth part of the amount of each separate share has been paid on account thereof before or at the time of the issue and acceptance thereof, and that such shares were issued bonâ fide and held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proofs aforesaid have been given, which certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

19. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver, in respect of principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five hundred pounds in the whole.

Debenture stock.

20. The Company may create and issue debenture stock at a rate of interest not exceeding six pounds per centum per annum.

Application of moneys.

21. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

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First ordinary meeting.

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

Number of directors.

23. The number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

24. The qualification of a director shall be the possession in own right of not less than ten shares.

Quorum.

25. The quorum of a meeting of directors shall be three, unless the number of directors shall be reduced to three, and then the quorum shall be two.

First directors.

26. William Baron Mew, Robert Pinnock, and Arthur Harbottle Estcourt, and such two other duly qualified persons as they or the majority of them shall nominate in that behalf, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present, in person or by proxy, may either continue in office the directors appointed by this Act, or any of them, or may

Election of directors.

elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present, in person or by proxy, shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Power to lay pipes against buildings.

27. The Company, with the consent of the owner or occupier of any building, may lay any pipe, branch, or other necessary apparatus from any main or branch pipe into, through, or against such building, for the purpose of lighting it, and may with the like consent provide and set up any apparatus necessary for securing to such building a proper and complete supply of gas, and for measuring and ascertaining the extent of such supply, and may from time to time with the like consent repair, replace, alter, or discontinue and remove any such pipe, branch, or apparatus.

Consumers may be required to consume by meter.

28. Every consumer of gas supplied by the company shall, on being required by the Company so to do, consume such gas by meter, and all such meters shall be subject to the provisions of the Act for regulating measures used in sales of gas; and until a meter be

examined and stamped under the provisions of that Act it shall be approved by the Company, and may from time to time be examined and tested by them, and meters may be provided, sold, or let for hire by the Company to the consumer.

Register of meters primâ facie evidence.

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

Limiting the price of gas.

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

Quality and purity of Company's gas.

31. All the gas supplied by the Company shall be of such quality as to produce from an argand burner consuming five cubic feet of gas per hour a light equal in intensity to the light produced by fourteen sperm candles of six in the pound burning one hundred and twenty grains per hour.

Company to erect a meter to test quality of gas.

32. The Company shall within twelve months from the passing of this Act cause to be erected in some convenient part of their works an experimental meter furnished with an argand burner capable of consuming five cubic feet of gas per hour, with other necessary apparatus, so situated and arranged as to test the illuminating power of all the gas supplied to the consumers, and shall at all times keep and maintain the experimental meter and apparatus in good repair and working order, and when necessary renew the same.

Power to test the illuminating power of the gas.

33. It shall be lawful for any two justices from time to time on the application of any of the consumers of the gas of the company, not being less than five in number, by order in writing to appoint some competent person to test the illuminating power and purity of the gas, and the person so appointed may at any reasonable hour, not later than eight o'clock in the evening, on producing and delivering up his order or authority, enter on the said works of the Company, and in presence of the person in charge of the works of the Company make experiment of the illuminating power and purity of the gas then flowing through the mains of the Company or otherwise, by means of the apparatus before mentioned, and the Company and their officers and servants shall afford all reasonable facilities and assistance for the making of such experiment; and if it shall be proved to the satisfaction of any two justices, after hearing the parties, that the illuminating power and purity of the gas supplied by the Company did not when so tested as aforesaid equal the illuminating power and purity by this Act prescribed, or that the Company or the person in charge of the works refused to afford such reasonable facilities as aforesaid, or hindered or prevented the

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making of such experiment, then and in every such case the Company shall forfeit such sum not exceeding five pounds as the justices shall determine.

Costs of experiment to be paid according to events.

34. The costs of and attending such experiment, including the remuneration to be paid to the person making the same and the costs of the proceedings before the justices, shall be ascertained by such justices, and in the event of any penalty being imposed on the Company shall be paid together with such penalty by the Company, but otherwise shall be paid by the consumers making such application as aforesaid.

Contracts for supplying gas for public purposes.

35. The Company on the one hand, and any duly constituted local authority on the other hand, may from time to time enter into and carry into effect any contract or arrangement for the supply of gas by the Company for public purposes within the limits of this Act for any period not exceeding, under any one such contract or arrangement, seven years, and may from time to time, by mutual consent, vary, suspend, or rescind any such contract or arrangement, or enter into or carry into effect other contracts or arrangements in lieu thereof or in addition thereto; and any local authority so agreeing may apply for the purposes of any such contract or arrangement, and in payment of any periodical or other remuneration or other consideration payable to the Company under or by virtue thereof, any funds or moneys which they have raised or may raise under the powers of any Act of Parliament.

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

36. The Company shall at the request in writing of any owner or occupier of any premises within seventy-five yards of which any main gas pipe of the Company shall be then laid, furnish to him a sufficient supply of gas for such premises, together (if so required) with a meter and so much of the service pipe as shall be necessary to communicate between the main pipe of the Company and such meter; provided that the expense of so much of the service pipe as shall be laid upon the property of such owner or occupier, or in any other case as shall be laid beyond twenty feet in length, and the cost of such meter shall be defrayed by such owner or occupier; and if the Company shall, after having received such a request in writing, by their wilful default fail to supply the gas within a reasonable time, then on proof of such default the Company shall be subject to a penalty not exceeding forty shillings.

Security for payment of rate.

37. Any person having or requesting to have a supply of gas from the Company shall (if and when so required in writing by them, and before he is entitled to have such service pipes and meter provided and fixed, or to have a supply of gas) give to the Company such security for the payment to them as he and the Company agree

on, or as in default of agreement shall be determined as by this Act provided; and the Company shall be liable to a penalty not exceeding forty shillings if they shall discontinue the supply of gas to any person then having a supply, unless such person shall have failed to give to them such security for seven days after the same shall have been demanded by the Company, or there are any arrears due in respect of gas supplied, or any security herein-before provided for has run out or ceased to remain in force.

Justices may determine nature of security.

38. Where any such person and the Company do not agree on the security to be given, the same shall be determined by two justices, and such justices shall, on the application of the person and the Company, or either of them, determine the nature and amount of security to be given, and the security may, as the justices think fit, be the deposit with the Company or the prepayment to the Company of a sum of money, or any other security which the justices think sufficient and reasonable, and the determination of the justices shall be binding on all parties.

Fraudulently injuring meters.

39. Every person who shall wilfully, fraudulently, or by culpable negligence injure, or suffer to be injured, any meter or fittings belonging to the Company, or shall fraudulently alter the index to any meter, or shall prevent any meter from duly registering the quantity of gas supplied, shall without prejudice to any other right or remedy for the protection of the Company or the punishment of the offender, for every such offence forfeit and pay to the Company a sum not exceeding five pounds, and the Company may in addition thereto recover the amount of any damages by them sustained; and in any case in which any person shall have wilfully or fraudulently injured, or suffered to be injured, any meter or fittings belonging to the Company, or shall have fraudulently altered the index to any meter, or prevented any meter from duly registering the quantity of gas supplied, the Company may also discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing) for the space of six months from the commencement of such discontinuance; and the existence of artificial means for causing such alteration or prevention, when such meter shall be under the custody or control of the consumer, shall be primâ facie evidence that such alteration or prevention (as the case may be) has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

Power to remove meters and fittings.

40. The Company, by their agents or workmen, after giving forty-eight hours notice in writing to the occupier, or if unoccupied then to the owner or lessee of any land, house, or building in which any pipes, mains, meters, or fittings belonging to the Company are

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laid or fixed, and through or in which the supply of gas shall, from any cause other than the neglect or default of the Company or their servants, be discontinued, may enter such land, house, or building between the hours of nine in the forenoon and four in the afternoon, and may remove such pipes, mains, meters, or fittings, but repairing all damages caused by such removal; and every such notice shall be served by being delivered to the person for whom it is intended, or left at his usual or last known place of abode, or sent by post addressed to such person, or if such person or his address be not known to the Company, and cannot, after due inquiry, be found or ascertained, then by being affixed on some conspicuous part of such land, house, or building.

Incoming tenant not liable to pay arrears of gas.

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

Gas rents, &c. may be recovered by distress.

42. All sums of money due to the Company for the supply of gas, or for the hire or fixing of meters or fittings, and all damages, costs, and expenses by this Act directed to be paid, may (the party in default being first duly summoned by any justice, and either failing to appear or not showing sufficient cause to the contrary) be levied by distress, and any justice on application may issue his summons and warrant accordingly.

Contents of warrant.

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

Warrant may include costs.

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

Recovery of sums by action.

45. Whenever any person neglects to pay any rent or sum due to the Company, the Company may recover the same with full costs of suit in any court of competent jurisdiction, and the remedy of the Company under this enactment shall be in addition to their other remedies for the recovery of such rent or sum.

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

47. No justice shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any gas rent, rate, or other charge under this Act. **Liability to gas rate not to disqualify justices.**

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

The SCHEDULE referred to in the foregoing Act.

1st. A piece of land in the parishes of Newport and Whippingham aforesaid, bounded on the north, south, and west by land called The Marsh, the property, or reputed property, of the mayor, aldermen, and burgesses of the borough of Newport aforesaid, and on the east partly by land called King's Field, belonging, or reputed to belong, to John Henry Hearn, Esq., and partly by the piece of land next hereafter described.

2nd. A piece of land situate in the parish of Whippingham aforesaid, adjoining the last-mentioned piece of land on the east side thereof, being part of the said land called King's Field, and bounded on the north and east by the said land called King's Field, and on the south by the occupation road leading to the said piece of land firstly herein-before described.

LONDON: Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1870.