CHAPTER cxxxv.

An Act to enable the Preston Gas Company to extend their limits of supply, to raise further capital; and for other purposes. A.D. 1879. [21st July 1879.]

WHEREAS by the Preston Gas Act, 1865 (herein called the Act of 1865), the Preston Gas Company (who are herein-after referred to as "the Company") were re-incorporated and authorised to supply gas within the parliamentary borough of Preston and the several neighbouring townships and parishes in that Act mentioned: 28 & 29 Vict. c. lvii.

And whereas the capital of the Company at the time of the passing of the said Act consisted of one hundred and twenty thousand pounds in shares and stock:

And whereas the Company were by the said Act empowered to increase their share capital by the further sum of one hundred and twenty thousand pounds, making the total capital of the Company two hundred and forty thousand pounds, all of which has been created and allotted, and of which two hundred and twenty-four thousand six hundred pounds have been paid up and expended:

And whereas the Company are authorised from time to time to borrow on mortgage and now owe sums amounting in the whole to sixty thousand pounds:

And whereas the requirements of the district included within the limits of the Act of 1865, with respect to the supply of light, are greatly increasing, and there is also a considerable demand for such supply in the adjoining township of Broughton, and it is expedient that such limits should be extended, and the powers of the Company enlarged as by this Act provided:

And whereas the works and lands of the Company in Preston are intersected by an unimportant street or road called Appleton Row, and it is expedient that the Company, who are the owners of the lands on each side thereof, should be empowered to stop up

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such street, and that the site thereof should be vested in the Company:

And whereas a plan showing the street intended to be so stopped up, and a book of reference thereto containing the names of the owners thereof, have been deposited with the clerk of the peace for the county of Lancaster, and are in this Act referred to as the deposited plan and book of reference:

And whereas it is expedient that the Company should be empowered to acquire and to exercise patent rights with respect to the manufacture and distribution of gas:

And whereas it is expedient that the Company should be authorised to raise additional capital, and that their borrowing powers should be proportionately increased, and the several other powers in this Act contained be conferred upon them:

And whereas the objects aforesaid cannot be accomplished without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Preston Gas Act, 1879, and the Act of 1865 and this Act may be cited together as the Preston Gas Acts, 1865 and 1879.

This Act and 28 & 29 Vict. c. lvii. to be construed together as one Act. 34 & 35 Vict. c. 41.

2. The Act of 1865, as amended by this Act, and this Act shall be construed and have effect together as one Act, except so far as such construction would be inconsistent with or repugnant to the provisions of this Act: Provided always, that the provisions of the Gasworks Clauses Act, 1871, incorporated with this Act shall not alter or supersede, but shall be in addition to, any of the provisions in the Act of 1865 having reference to the local board of health of the borough of Preston, or to the supply of gas by the Company in the township of Fulwood; and for the purposes of this Act the said Act of 1871 and the Act of 1865 shall, except so far as such construction would be inconsistent with or repugnant to the provisions of this Act, be read and construed together as one Act.

Incorporation of general Acts. 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 10 & 11 Vict. c. 15. 8 & 9 Vict. c. 16.

3. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the Gasworks Clauses Acts, 1847 and 1871, and the provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; that is to say,

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions, and means of enforcing the 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 the 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;
The consolidation of shares into stock, and the provision to be made for affording access to the special Act by all parties interested;

And Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, and the Companies Clauses Act, 1869, shall, subject to the provisions of this Act, extend and apply to the Company, and the additional capital by this Act authorised to be raised, and the Gasworks Clauses Act, 1871, shall apply to the undertaking of the Company as if the same were hereby authorised. 26 & 27 Vict. c. 118. 32 & 33 Vict. c. 48.

Interpretation of terms.

4. In this Act the terms to which meanings are assigned in Acts incorporated wholly or in part with this Act, or which have therein special meanings, have in this Act (unless varied thereby) the same respective meanings, and in this Act, and for the purposes of this Act, in Acts incorporated wholly or in part with this Act, the expressions "superior courts" or "court of competent jurisdiction," or any other like expression, shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt, and not a debt or demand created by statute.

Extension of limits of supply.

5. The limits within which the Company may supply gas and exercise the powers conferred on them by the Act of 1865 and this Act shall extend to and include, in addition to the places specified in the fifth section of the Act of 1865, the township of Broughton, in the parish of Preston, in the county palatine of Lancaster.

Power to stop up and appropriate Appleton Row.

6. The Company may stop up and appropriate to the purposes of their undertaking, but not for the storage of gas, the street or road in the township and parish of Preston known as Appleton Row, and when and so soon as the same shall be so stopped up, all rights of way thereover shall cease, and the site and soil thereof shall vest in the Company on payment to the Corporation of Preston of such a sum of money, and upon such terms and conditions, as may be agreed upon, or as, in case of difference, shall be settled and determined under the provisions of the Lands Clauses

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Consolidation Acts with respect to the settlement of disputed cases of compensation.

Protecting London and North-western Railway Company.

7. In laying down or in effecting the repairs or renewals of any mains or pipes, or in executing any other works under or in exercise of the powers conferred by this Act, across, under, or over, or in any way affecting any railway, canal, or lands wholly or jointly belonging or leased to or occupied by the London and North-western Railway Company, or any of the bridges, stations, towing-paths, or other works of any such railway or canal, the same shall be done under the superintendence and to the reasonable satisfaction of their principal engineer, and, except in case of emergency, according to plans to be previously submitted to and reasonably approved by him, and shall be executed by and in all things at the expense of the Company, and so as not to injure any such railway, canal, bridges, stations, towing-paths, works, or lands, or interrupt the passage or conduct of traffic over any such railway or canal, or at any station or wharf thereon respectively; and if any such injury or interruption shall arise, the Company shall make full compensation to the London and North-western Railway Company in respect thereof, the amount of such compensation, together with full costs, to be recoverable by that company from the Company by all and the same means as any simple contract debt. If any difference arise between the Company and the London and North-western Railway Company touching such plans as aforesaid, or anything to be done or not to be done under this section, such difference shall be determined by an engineer to be agreed on between the parties in difference, or in default of agreement to be appointed, on the application of either of them, by the President for the time being of the Institution of Civil Engineers, and the costs of such arbitration shall be borne as the arbitrator shall direct.

Power to raise additional capital.

8. The Company may, subject to the provisions of this Act, raise any additional capital, not exceeding in the whole one hundred and twenty thousand pounds, by the issue, at their option, of new ordinary shares or stock or new preference shares or stock, or wholly or partially by any one or more of those modes respectively; but the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same, unless and until the full nominal amount of such share or stock, together with any premium obtained upon the sale thereof, shall have been paid in respect thereof: Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to procure, including any premiums

which may be obtained on the sale thereof, the sum of one hundred and twenty thousand pounds: Provided also, that the Company shall not create and issue within the year following the passing of this Act any greater nominal amount of capital than thirty thousand pounds, or within any subsequent year fifteen thousand pounds, and the Company shall not call up any portion of any instalment of fifteen thousand pounds of new capital until the whole of their borrowing powers in respect of any previous instalment of capital of thirty thousand pounds or fifteen thousand pounds respectively, as the case may be, shall have been fully exercised; and in case the Company shall pay off any money which by this Act they are authorised to borrow or continue on mortgage, they shall forthwith re-borrow the same, the true intent and meaning of this Act being that the Company shall for the time being exercise fully their then borrowing powers: Provided always, that if such new capital be not called up in the first year to the extent of thirty thousand pounds, or in any subsequent year to the extent of fifteen thousand pounds, the deficiency may be called up in any subsequent year, in addition to the amount authorised to be called up in that year.

Except as otherwise provided, new shares or stock to be subject to the same incidents as other shares or stock.

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

New capital to form part of capital of Company.

10. The capital in new shares or stock so created shall form part of the capital of the Company.

Profits of the Company limited.

11. The Company shall not in any one year make out of their profits any larger dividend on the said additional capital 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 as may be issued as preference capital.

As to dividends on different classes of stock or shares.

12. The holders of the various classes of ordinary stock or shares in the capital of the Company shall, up to and until the respective prescribed maximum rates of dividend on such respective stock or shares have been reached, be entitled to receive dividends at the same rates per centum per annum.

Restriction as to votes in respect of

13. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of

preferential shares or stock.

any new shares or stock to which a preferential dividend shall be assigned.

New shares or stock to be offered by auction or tender.

14. Notwithstanding anything in this Act contained, the Company shall, when any shares or stock created under the powers of this Act are to be issued, and before offering the same to the holder of any other shares or stock in the Company, and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not, offer the same for sale by public auction or by tender in such manner, at such times, and subject to such conditions of sale as the Company shall from time to time determine: Provided that at any such sale no single lot shall comprise more than one hundred pounds nominal value of shares or stock, and that the reserved price put upon such shares or stock shall not be less than the nominal amount thereof, and notice of the amount of such reserved price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders, as the case may be; and such letter may be opened after such day of auction or last day for the reception of tenders, and not sooner, and provided that no priority of tender shall be allowed to any holder of shares or stock in the Company.

Purchase money of capital sold by auction to be paid within three months.

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

Notice to be given of intention to sell shares or stock.

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

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

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

to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act, and any shares or stock not so sold shall be dealt with in manner provided by the before-mentioned Act of 1863 with respect to additional capital. A.D. 1879.

Application of premium arising on issue of shares or stock.

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

Power to borrow on mortgage.

19. The Company may, in respect of the additional capital of one hundred and twenty thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole thirty thousand pounds, and the Company may, as each portion of additional capital to be from time to time issued has been issued and accepted, and one half of the amount thereof has been paid up, borrow on mortgage in respect of each portion of additional capital any sum or sums not exceeding in the whole one-fourth part thereof; but in no case shall any part of the said respective sums be borrowed until shares for so much of the said portion of the additional capital as is to be raised by means of shares are issued and accepted, and one half of such portion 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, in respect of which such borrowing powers are sought to be exercised, have been issued and accepted, and that one half of such portion 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 said portion of the additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the said additional capital 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

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grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Existing mortgages to have priority.

20. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall during the continuance of such mortgages, and subject to the provisions of the Acts under which such mortgages and bonds were respectively granted, have priority over any mortgages granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Priority of mortgages and debenture stock over other debts.

21. All money to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company, and the property for the time being 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.

As to conversion of borrowed money into capital.

22. 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.

Application of moneys raised under this Act.

23. All and every part of the sums of money which the Company are by this Act authorised to raise by new shares or stock, or by borrowing, shall, after payment of all costs, charges, and expenses of and incident to the preparing, applying for, obtaining, and passing of this Act, be applied solely to the purposes of this Act and of the Act of 1865, and for the general purposes of the Company to which capital is properly applicable.

As to ordinary meetings of Company.

24. The ordinary meetings of the Company shall be held on the first Monday in August and the first Monday in February in every year, or within twenty-one days thereafter, instead of in the months of July and January, as provided by the Act of 1865.

Powers as to maintenance of gasworks.

25. Subject to the provisions of this Act and of the Act of 1865, the Company may from time to time maintain, alter, improve, enlarge, extend, and renew or discontinue their existing gasworks, and otherwise carry their existing powers into execution upon the lands on which the gasworks are erected, or which are authorised to be used for that purpose, or any part of those lands, and which lands are described in the schedule to this Act.

As to number of candles and burner.

26. The prescribed number of candles and the prescribed burner shall be those prescribed by section 50 of the Preston Gas Act, 1865.

Testing place.

27. The prescribed testing place shall be the experimental meter provided by the Company in pursuance of section 51 of the last-mentioned Act.

Pressure of gas.

28. All gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance a column of water from midnight to sunset not less than six-tenths of an inch, and from sunset to midnight not less than eight-tenths of an inch, in height at the main as near as may be to the junction therewith of the service pipe supplying such consumer; and any gas examiner appointed under the Gasworks Clauses Act, 1871, may, subject to the terms of his appointment, from time to time test the pressure at which the gas is supplied, and may for that purpose open any street, road, passage, or place, not being the immediate approach to any railway bridge or railway station 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 reasonable notice shall previously 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 charges, &c.

29. If any person is required by the Company to give to them security for the payment of the price or rent of a meter, the Company shall pay interest after the rate of five pounds per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands.

Limiting the price of gas as regards certain places.

30. The price to be charged by the Company for gas supplied by them to persons in the places after mentioned, who shall burn the same by meter, shall, from and after the first day of January next, not exceed the following for every thousand cubic feet; that is to say,

As regards the parish of Penwortham, and the township of Ribbleton, the township of Lea Ashton, Ingol, and Cottam, and the township of Broughton, five shillings; and as regards the township of Walton-le-Dale, four shillings and sevenpence.

Power to take licenses.

31. The Company may, subject to the provisions of this Act (but only for the purposes of the Company within the limits of their district, and not so as to acquire any exclusive right therein), contract for, take, and use any leave, license, or authority to work, use, exercise, and put in practice any invention under letters patent

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heretofore made or hereafter to be made, granting any right or privilege of working, using, or vending any invention in relation to the manufacture, production, and distribution of light by means of gas, or the conversion, manufacture, or utilisation of any products obtainable in or arising from such manufacture or production or from the materials used therein.

Expenses of Act.

32. All costs, charges, and expenses of and incident to the preparing, applying for, and obtaining of this Act shall be defrayed by the Company.

SCHEDULE referred to in the foregoing Act.

Lands now belonging or claimed to belong to the Company, and upon which the Company have constructed or are empowered to construct gasworks.

Certain lands situate in Preston bounded on the north by Syke Street, on the south by Avenham Lane, on the east by Avenham Street, and on the west by Glover Street, and containing 8,131 square yards or thereabouts.

Certain lands situate in Preston aforesaid bounded on the north partly by Higginson Street and partly by Appleton Row, on the south partly by Walker Street and partly by premises belonging or reputed to belong to the trustees of the late Joseph Park, on the east by Lawson Street, and on the west partly by Appleton Row, partly by North Street, and partly by premises belonging or reputed to belong to the trustees of the late Joseph Park, and containing 9,390 square yards or thereabouts.

Certain lands situate in Preston aforesaid lying between North Street, Warwick Street, Moor Lane, and Walker Street, and fronting to those streets and to Tank Row, and containing 11,029 square yards or thereabouts.

Certain lands situate in Preston aforesaid situate on the south side of and fronting to Ribbleton Lane, and on the west side of and fronting to Geoffrey Street, and containing 18,065 square yards or thereabouts.

Certain lands situate in Walton-le-Dale fronting to a road leading to Walton Bridge, and adjoining to lands belonging or reputed to belong to the trustees of the will of the late Sir Henry de Hoghton, Baronet, and containing 3,300 square yards or thereabouts.

Certain lands situate in Farrington fronting to the road leading to the Moss, and adjoining to lands belonging or reputed to belong to the Lancashire and Yorkshire Railway Company and to Lawrence Rawstorne, Esquire, and containing 9,680 square yards or thereabouts.

LONDON : Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1879.