CHAP. cxxxvii.

An Act for granting further powers to "The Saint Helens Gas Company." [1st August 1870.]

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WHEREAS by an Act passed in the fifteenth year of the reign of Her present Majesty (herein-after referred to as the recited Act), intituled "An Act for better lighting with gas the town of "Saint Helens, the hamlet of Hardshaw-cum-Windle, and the "several townships of Windle, Parr, Eccleston, and Sutton, all in "the parish of Prescot in the county palatine of Lancaster," the Saint Helens Gas Company (who are herein referred to as "the Company") were incorporated, and by that Act it was provided that the capital of the Company should be forty-six thousand pounds, divided into four thousand six hundred shares of the nominal value of ten pounds each, and the Company were also thereby empowered to borrow the sum of one thousand five hundred pounds in the event and upon the terms in such Act mentioned:

15 & 16 Vict. c. lxix.

And whereas within the limits of the said Act of late years much land has been laid out for building purposes, many new streets have been formed, and numerous houses, manufactories, and works have been erected, and the trade and population have greatly increased and are still increasing:

And whereas it is expedient that the limits within which the Company may supply gas should be extended:

And whereas the Company have expended or are about to expend all the capital which they were authorised to raise by the said Act, but they are not now indebted upon mortgage, and the Company require further powers and capital to enable them effectually to carry on their undertaking:

And whereas the objects aforesaid 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

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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 Saint Helens Gas Act, 1870."

Provisions of general Acts herein named incorporated.

2. The provisions in "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 the means of enforcing the payment of calls:
The forfeiture of shares for nonpayment of calls:
The remedies of creditors of the Company against the shareholders:
The borrowing of money by the Company on mortgage or bond:
The consolidation of shares into stock:
The making of dividends, and
The giving of notices:

Parts I. II. and III. of "The Companies Clauses Act, 1863," relating respectively to cancellation and surrender of shares, to additional capital, and to debenture stock, as amended by "The Companies Clauses Act, 1869," and "The Gasworks Clauses Act, 1847," are (except where expressly varied by this Act or inconsistent with the express provisions thereof) 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 have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and in construing this Act, and in construing for the purposes of this Act the Acts incorporated herewith, the expressions "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, are to be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Limits within which Company may supply gas.

4. The limits within which the Company may supply gas shall extend to and include, in addition to the townships and places within the limits of the recited Act, the townships of Ashton-in-Mackerfield and Haydock, in the county of Lancaster, and it shall be lawful for the Company for the purpose of supplying gas within such extended limits to exercise the same powers as they could have exercised if such extended limits had been included within

the limits of the recited Act: Provided that the Company shall not erect any works for the manufacture or storage of gas within such extended limits, and that the Company shall, with respect to the supply of gas to the township of Haydock, be under the same duties and obligations as they are under with respect to the supply of gas to the borough of Saint Helens, and that the Company shall within twelve months after the passing of this Act proceed bonâ fide to supply the said township.

Confirming agreement with Prescot Gas Company.

5. The agreement dated the eighth day of March one thousand eight hundred and seventy between the Saint Helens Gas Company and the Prescot Gas Company (a copy of which agreement is in a schedule to this Act) is hereby confirmed and made binding on both companies.

No gasometer to be erected near the stations, &c. of the London and North-western Railway Company.

6. No gasometer or buildings used or necessary for making or supplying gas, hydrogen, coke, oil, tar, pitch, asphaltum, ammoniacal liquor, or essential oil, shall be erected, built, or established within the distance of one hundred yards from any passenger or goods stations on any of the railways of the London and North-western Railway Company, without the consent of that company for that purpose obtained under their common seal.

Property of the London and North-western Railway Company not to be interfered with without consent.

7. Notwithstanding anything in this Act contained, it shall not be lawful for the Company either permanently or temporarily to enter upon, excavate, bore, undertake, appropriate, or use any of the buildings, lands, stations, or property whatsoever of or belonging to the London and North-western Railway Company, or in any manner to alter, vary, or interfere with any railways or canals, or the towing paths thereof, belonging to that company, or the works appertaining thereto respectively, without the consent of that company under their common seal first obtained for any such purpose from time to time.

Saving rights of that company.

8. Nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities vested in the London and North-western Railway Company.

Power to raise additional capital.

9. In addition to the capital authorised by the recited Act the Company may from time to time raise by the creation of new ordinary or new preference shares, or (at the option of the Company) by both of those modes, such further sum or sums as they may think proper, not exceeding in the whole twenty-four thousand pounds, in shares of ten pounds each.

New shares not to issue until one fifth paid up.

10. The Company shall not issue any such share, nor shall any such share vest in the person accepting the same, unless and until

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a sum not being less than one fifth part of the amount of such share shall have been paid up in respect thereof.

Additional shares to be sold by auction.

11. The directors of the Company shall cause the additional shares, when and as the same shall from time to time be created, to be sold by public auction in such manner and at such times and subject to such conditions as the said directors may from time to time determine.

Sale by auction to be advertised, and premiums on such sale not to be entitled to dividend.

12. The intention to sell those shares, or any of them, by auction shall be duly advertised for two successive weeks in a newspaper published in the town of Saint Helens, and any sum of money which shall arise upon such sales by way of premium shall be expended in extending or improving the works of the Company, or in paying off money borrowed by the Company, and shall not be considered as part of the capital of the Company entitled to dividend.

Limits of dividends on new capital.

13. The Company shall not in respect of any year make out of their profits any larger dividend on the additional capital of twenty-four thousand pounds, or on any part thereof, than seven pounds in respect of every one hundred pounds actually paid of such capital on ordinary shares, or six pounds in respect of every one hundred pounds actually paid of such capital on preference shares.

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

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

Power to borrow on mortgage.

15. The Company may from time to time under the powers of this Act borrow on mortgage of their undertaking any sums not exceeding eleven thousand five hundred pounds, including any sum they may have power to borrow under the Act of 1852 in respect of the capital of forty-six thousand pounds already expended by them upon the said undertaking, and they may also borrow on mortgage of their undertaking additional sums not exceeding in the whole six thousand pounds in respect of the additional capital of twenty-four thousand pounds by this Act authorised to be raised, but no part of any of the said sum of six thousand pounds shall be borrowed until the Company shall 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 the whole of the said additional capital of twenty-four thousand pounds has 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 capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by persons or their

assigns, and that such persons 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 proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

For appointment of a receiver.

16. The mortgagees of the Company may enforce payment of arrears of interest, 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, or of principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less in the whole than four thousand pounds.

Debenture stock.

17. The Company may create and issue debenture stock.

Application of moneys.

18. All moneys raised under this Act by the Company, whether by shares, debenture stock, or borrowing, shall be applied only for the purposes by the recited Act or this Act authorised.

Price of gas.

19. From and after the thirty-first day of December one thousand eight hundred and seventy the price of gas to be supplied by the Company by meter within the borough of Saint Helens shall not exceed four shillings, and beyond the said borough shall not exceed four shillings and sixpence, for every thousand cubic feet of gas.

Preserving existing contracts.

20. All existing agreements in writing between the Company and any corporations or persons for the supply of gas shall be as binding and valid, notwithstanding the passing of this Act, as they would have been if this Act had not been passed.

Incoming tenant not liable for arrears of gas rate.

21. In case any consumer shall leave the premises where gas was supplied to him without paying to the Company the gas rate or meter rent due from him, the Company shall not be entitled to require from the next tenant of the premises payment of the arrears left unpaid by the former tenant, unless the incoming tenant had agreed with the defaulting consumer to pay the arrears.

Quality of Company's gas.

22. All the gas supplied by the Company shall be of such quality as to produce from an argand burner having fifteen holes and a seven-inch chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to the light produced by fourteen sperm candles of six to the pound, burning one hundred and twenty grains per hour, and shall be so far free from sulphuretted hydrogen as not to discolour moistened test paper imbued with acetate or carbonate of lead, when those tests are exposed for one minute to a current of gas issuing under a pressure of five tenths of an inch of water.

Company to erect a meter to test gas.

23. The Company shall within six months after the passing of this Act erect and maintain at their offices in the town of Saint

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Helens, or at some other proper and convenient place, an experimental meter furnished with a fifteen-hole argand burner and a seven-inch chimney, or other approved burner and chimney, capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the quality of the gas supplied by the Company, and so situate and arranged as to test all the gas supplied by them.

Power to test, &c.

24. If any five or more persons being consumers of gas, or if the corporation of Saint Helens, by the town clerk, shall complain in writing that the gas supplied by the Company is not of the quality prescribed by this Act, and shall request that the matter complained of should be inquired into, it shall be lawful for two justices of the peace of the county of Lancaster not being interested in the matter, from time to time upon the receipt of any such request by order in writing to appoint some competent person not being an officer or servant of the Company to test the quality of the gas, and the person so appointed may at any reasonable hour in the daytime, on producing the said order, enter on the premises of the Company, and in the presence of the manager or other officer of the Company make experiment of the quality of the gas by means of such experimental meter and other apparatus, and the Company and their officers shall afford all reasonable facilities 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 said complaint was well founded, or that the Company or their officers refused to afford such reasonable facilities as aforesaid, or hindered or prevented the making of such experiment, in any such case the Company shall forfeit such sum not exceeding twenty pounds as the justices shall determine.

Costs of experiment to be paid according to event.

25. 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 the justices, and, in the event of any penalty being imposed on the Company, shall be paid together with such penalty by the Company, but in the event of no such penalty being imposed on the Company, then those costs shall be ascertained by the justices and shall be paid by the persons signing the complaint.

Company may manufacture, &c. meters and gas apparatus.

26. The Company may manufacture, purchase, or hire gas meters and any apparatus or fittings, tubes, pipes, and other articles and things connected with gasworks or with the supply of gas, and may sell or let the same.

Power to use patented inventions, &c.

27. The Company may take and hold any license or authority under any letters patent to use any inventions relative to the manu-

facture or distribution of gas, or the utilization of the residual products arising in the manufacture of gas, but they shall not acquire by any such license or authority any right or privilege in any respect of an exclusive character.

Sect. 36 of recited Act repealed.

28. Section thirty-six of "The Saint Helens Gas Act, 1852," as to the remuneration of directors, is hereby repealed.

Expenses of Act.

29. All the costs, charges, and expenses of and incident to the passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

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SCHEDULE referred to in the foregoing Act.

An Agreement made and entered into the eighth day of March one thousand eight hundred and seventy, between the Saint Helens Gas Company of the one part, and the Prescot Gas Company of the other part.

Whereas the Saint Helens Gas Company were incorporated by an Act passed in the year one thousand eight hundred and thirty-two (2nd and 3rd William 4th, chapter 12.), under the name of the Saint Helens Gaslight Company, for lighting with gas the town of Saint Helens, the hamlet of Hardshaw-cum-Windle, and the several townships of Windle, Parr, Eccleston, and Sutton, all in the parish of Prescot in the county of Lancaster, and the said Company were re-incorporated by "The Saint Helens Gas Act, 1852," under the name of the Saint Helens Gas Company, with the same limits of supply, and are now supplying gas within the said town of Saint Helens and other places within the said limits, and among them certain parts of the said township of Eccleston: And whereas the Prescot Gas Company were incorporated by "The Prescot Gas Act, 1867," with power to supply gas within certain limits, which included, among other places, the same township of Eccleston and certain parts of the township of Whiston, and that part of the township of Rainhill in the said county which is herein-after mentioned, and the said Company are now supplying gas to places within such limits, including certain parts of the said township of Eccleston: And whereas the Saint Helens Gas Company are now promoting a bill in Parliament whereby, among other things, they seek power to extend their present limits of supply so as to include the whole of the said townships of Whiston and Rainhill: And whereas the possession by two independent gas companies of power to break up the public streets and highways within the same district is productive of great public inconvenience, and it is expedient as well for the avoidance of such inconvenience as for the economizing of capital that each of the said two companies should restrict itself in the laying of pipes and the supplying of gas and the lighting with gas to a separate and distinct district within the said townships of Eccleston and Rainhill respectively: And whereas a duplicate map has been prepared and signed by two of the directors and the secretary of each company, and has been interchanged between the said two companies, whereon each of the said townships of Eccleston and Rainhill has for the purposes of these presents been divided into districts, called respectively the Saint Helens district and the Prescot district, and the boundary between the said two districts in each the said townships is thereon defined by a boundary line coloured red: Now these presents witness, that, subject to the approval of Parliament, and subject to the confirmation of these presents by the bill of the Saint Helens Gas Company now pending in Parliament, each of them the Saint Helens Gas Company and the Prescot Gas Company, for themselves, their successors, and assigns, doth hereby covenant with the other, and with the

successors and assigns of that other respectively, in manner following; (that is to say,)

1. The Saint Helens Gas Company shall amend their said bill so as to exclude from the limits of supply as now fixed thereby the said township of Whiston, and so much of the said township of Rainhill as lies within the following boundary; that is to say, a line commencing at the point where the London and North-western railway intersects the boundary line of the said townships of Whiston and Rainhill, and passing thence along the said railway in an easterly direction to the point where that railway is crossed by the public footpath leading from Stoney Lane to the Liverpool, Prescot, Ashton, and Warrington turnpike road, thence along and including that footpath to that turnpike road, and thence across that turnpike road due north to the boundary line of the said townships of Eccleston and Rainhill, and thence in a north-westerly direction along that boundary to the point where that boundary joins the boundary of the said townships of Whiston and Rainhill, and thence along the last-mentioned boundary to the first-mentioned point.

2. The district of the Prescot Gas Company in the said township of Eccleston shall be so much of that township as lies within the boundary line following; (that is to say,) a line commencing at the point where Holt Lane enters the said township of Eccleston from the said township of Whiston, and thence running along the centre of that lane to Portico Turnpike, and thence crossing the turnpike road in a direct imaginary line to the point in Burrow's Lane where it joins the private road leading to Trap Lodge in the said township of Eccleston, thence along such road and in a line continued due west to the edge of the said township of Eccleston next to the township of Knowsley, and thence turning in a southerly direction, and running along the boundary line between the said township of Eccleston and the townships of Knowsley, Prescot, and Whiston respectively to the said point in Holt Lane.

3. The district of the Saint Helens Gas Company in the said township of Eccleston shall be all such part or parts thereof as are not comprised within the said district of the Prescot Gas Company.

4. Neither company will at any time hereafter, except by agreement with the other company, place or lay main pipes or apparatus, or directly or indirectly supply or aid in supplying gas to be consumed within, or light with gas, or in any way interfere with the district of the other company, or any part of such district.

5. If either of the said companies do anything in contravention of Article 4 of these presents, the other of the said companies shall thereupon have, during three calendar months after notice in writing given by that company of such contravention to the company so contravening, the option of taking possession of all or any of the works, mains, pipes, and apparatus erected, placed, or laid by the contravening company in the said district of the other company, such option to be in every case declared in writing within such three calendar months by the company so intending to take possession, and such option shall be in addition to any remedy against the company so contravening which the other company may have by virtue of these presents, either at law or in equity.

6. The price to be paid for so taking possession of such works, mains, pipes, and apparatus shall be a price equal to the then actual value of the works, mains,

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pipes, and apparatus so taken possession of, such value in case it be not agreed upon between the said two companies to be determined by arbitration in manner herein-after mentioned, but no money shall be paid by the Company as or for goodwill for the so taking possession.

7. Neither company shall at any time enter into any contract or arrangement with respect either to the transfer of their works or mains, or any part thereof, to, or the amalgamating with, any other company, without making by such contract or arrangement a stipulation that the last-mentioned company shall enter into a covenant to observe and perform the covenants contained in these presents as if they had been a party hereto.

8. These presents shall be binding upon and may be enforced by the assigns of each company supplying any part of the said township of Eccleston, and that whether such assigns be assigns of part or the whole of the works and mains of such company, and each company shall be responsible for the performance and observance by their assigns of the several covenants contained in these presents until such assigns shall themselves enter into a covenant with the other company to observe and perform the same several covenants; and for all the purposes of this article the word assigns shall include any company with whom either of the said two companies may be amalgamated.

9. If at any time any question shall arise between the said companies as to the true intent, construction, effect, and meaning of these presents, every such question, as well as every question which by any article herein especially directed to be determined by arbitration, shall be referred to and determined by arbitration according to the provisions with respect to the determination of disputes by arbitration of "The Companies Clauses Consolidation Act, 1845;" and those provisions, so far as they are applicable to these presents, shall for that purpose be deemed to be incorporated with and form part of these presents. In witness whereof the said companies have caused their common seals to be hereunto respectively affixed the day and year first above written.

Passed under the common seal of the Saint Helens Gas Company, in the presence of
THOS. F. ANSDELL,
Law Clerk to the Company.

Seal of the Saint Helens Gas Company.

Passed under the common seal of the Prescot Gas Company, in the presence of
WILL. PRESCOTT,
Secretary.

Seal of the Prescot Gas Company.

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