



CHAPTER clxix.

An Act to empower the Radcliffe and Pilkington Gas Company to acquire additional Lands, and to raise further Moneys. A.D. 1878.
—
[22d July 1878.]

WHEREAS by the Radcliffe and Pilkington Gas Act, 1854, the Radcliffe and Pilkington Gas Company (in this Act called the Company) were incorporated for lighting with gas the town and parish of Radcliffe and the township of Pilkington or parts thereof, and also the area in that Act defined; and by the Radcliffe and Pilkington Gas Act, 1869, further powers were granted to the Company: 17 & 18 Vict.
c. iii.

32 & 33 Vict.
c. xxxvii.

And whereas it is expedient that the Company should be empowered for the purpose of extending and enlarging their gasworks, and for producing an increased supply of gas within their district to acquire the additional lands in this Act described or referred to:

And whereas plans of the lands which the Company are by this Act authorised to acquire, and a book of reference to those plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, were duly deposited with the clerk of the peace for the county of Lancaster, within which county those lands are situate, and are herein-after referred to as the deposited plans and book of reference:

And whereas the Company, under their said Acts of 1854 and 1869, were empowered to raise the following sums of money; (that is to say,)

Under the Act of 1854—						£
By shares	-	-	-	-	-	30,000
By borrowing	-	-	-	-	-	8,000
						£38,000
 Under the Act of 1869—						
By shares or stock	-	-	-	-	-	50,000
By borrowing	-	-	-	-	-	12,500
						£62,500

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And whereas the Company have raised and expended for the purposes of their undertaking the whole of the said sums of money, and it is expedient that they should be empowered to raise further moneys in order to meet the increasing demands for gas within their authorised limits of supply :

And whereas the purposes aforesaid cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the 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
and construc-
tion of Act.

1. This Act may be cited as the Radcliffe and Pilkington Gas Act, 1878, and this Act and the recited Acts of 1854 and 1869 shall be construed together as one Act, except so far as such construction would be inconsistent with or repugnant to this Act.

Incorporation of general Acts.

8 & 9 Vict.
c. 18.

23 & 24 Vict.
c. 106.

32 & 33 Vict.
c. 18.

8 & 9 Vict.
c. 16.

2. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, the clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to—

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 conversion of borrowed money into capital ;

The consolidation of shares into stock ;

The making of dividends ;

The giving of notices ;

The provision to be made for affording access to the special Act by all parties interested ;

26 & 27 Vict.
c. 118.

34 & 35 Vict.
c. 41.

And also Parts I., II., and III. of the Companies Clauses Act, 1863, relating respectively to the cancellation and surrender of shares, to additional capital; and to debenture stock; are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act; and the Gasworks Clauses Act, 1871, (except where expressly varied by this Act,) shall, as and from the first day of January one thousand eight hundred and seventy-nine, apply to the undertaking of the Company as if the same had been authorised by this Act; and the provisions of the Gasworks Clauses Act, 1871, shall be held to repeal and supersede

such of the provisions of the recited Acts of 1854 and 1869 as are inconsistent with the Gasworks Clauses Act, 1871, as varied by this Act. A.D. 1878

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 for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall 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. Interpretation of terms.

4. Subject to the provisions of this Act, the Company may from time to time enter upon, take, use, and appropriate to and hold for the purposes of their undertaking all or any of the lands delineated on the deposited plans and described in the deposited books of reference; and they may lay down and maintain gas mains or pipes from their existing mains or pipes at or in the turnpike road leading from Besses-o'-th'-Barn through Rooden Lane and Cheetham Hill to Manchester, along Thatch Leach Lane, into the lands first described in Part II. of the Schedule to this Act. Power to acquire additional lands.

5. In addition to the lands described in Part I. of the Schedule to this Act, and the gasworks on those lands which the Company have erected under the authority of their said Act of 1854, the Company may from time to time, subject to the provisions of this Act, erect, lay down, provide, and maintain, alter, improve, enlarge, extend, and renew or discontinue upon the lands which they are by this Act empowered to acquire, and which are described in Part II. of the Schedule to this Act, additional and other gasworks, retorts, gasometers, receivers, drains, sewers, mains, pipes, meters, lamps, lamp-posts, burners, stop-cocks, machinery, and other works, apparatus, and conveniences, and may do all such acts as they may think proper for making and storing gas, and for supplying gas within their district, and may make, store, and supply gas accordingly; and may manufacture, sell, provide, supply, and deal in coal, coke, tar, pitch, asphaltum, ammoniacal oil, and all other products or residuum of any materials employed in or resulting from the manufacture of gas, and also meters, fittings, tubes, pipes, and other articles and things in any way connected with gasworks or with the supply of gas, as they may from time to time think fit. Power to construct gasworks, &c.

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Power to raise additional money by creation of shares or stock.

Mode of raising new capital.

6. The Company may from time to time raise by the creation of new shares or new stock, in addition to any moneys which they have raised or are authorised to raise under and by virtue of the said recited Acts, any sum or sums of money not exceeding in the whole one hundred and twenty thousand pounds.

7. Such additional capital may be raised by means of new ordinary shares or new ordinary stock, or new preference shares or new preference stock, or partly by one mode and partly by the other, as the Company from time to time think fit; but the Company shall not issue any share of less nominal value than ten pounds, nor shall any such share or stock vest in the person accepting the same, unless and until the full nominal amount of such share or stock, together with any premium obtained upon the sale of any shares or stock sold by auction under the provisions of this Act, 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 produce, including any premiums which may be obtained on the sale thereof, the sum of one hundred and twenty thousand pounds.

New shares or stock to form part of general capital.

8. Except as by or under the provisions of this Act otherwise provided, the capital so to be raised by the creation of new shares or stock shall be considered as part of the general capital of the Company.

Calls.

9. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

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

10. After the Company shall have under the powers of this Act created and issued shares or stock to the extent in nominal amount of forty thousand pounds, then, notwithstanding anything in this Act contained, the Company shall, when any further 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.

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11. 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.

Purchase money to be paid within three months.

12. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the respective clerks of the local boards of the districts included within the Company's limits of supply, 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 circulating within the said limits of supply.

Notice to be given as to sale, &c. of shares or stock.

13. 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 excepted 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.

Shares or stock not sold by auction or by tender to be offered to shareholders.
26 & 27 Vict. c. 118.

14. 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.

Application of premium arising on issue of shares or stock.

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Limit of
dividends on
new capital.

10 & 11 Vict.
c. 15.

As to votes
of proprietors
of new capi-
tal.

Power to
borrow on
mortgage.

8 & 9 Vict.
c. 16.

15. The Company shall not in any year pay out of their profits any larger dividend on the additional capital in shares or stock to be raised under the powers of this Act than at the rate of 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 shall be issued as preference capital; and the provisions contained in sections 30 to 38, both inclusive, of the Gasworks Clauses Act, 1847, with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, shall be incorporated with this Act.

16. The proprietors of shares or stock to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented by such shares or stock would have entitled them to if the same had been original shares or stock of the Company.

17. The Company may from time to time borrow on mortgage additional sums, not exceeding in the whole thirty thousand pounds, in respect of the additional capital of one hundred and twenty thousand pounds by this Act authorised to be raised; provided that in respect of every ten thousand pounds of such additional capital issued and accepted, and one half whereof shall have been paid up, the Company may borrow a sum or sums not exceeding in the whole two thousand five hundred pounds, but no part of any of the before-mentioned sums of two thousand five hundred pounds shall be borrowed until shares for so much of the portion of the additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such portion of additional capital 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 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, if the said capital is raised by shares, that such persons or corporations,

or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof. A.D. 1878.

18. 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. As to conversion of borrowed money into capital.

19. The mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the time of the passing of this Act, shall, during the continuance of such mortgages and bonds, and subject to the provisions of the Acts under which the same 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. Former mortgages and bonds to have priority.

20. Section 11 of the Act of 1869 is hereby repealed, and in the stead thereof be it enacted as follows: 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. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole. As to appointment of a receiver.

21. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages. Debenture stock. 26 & 27 Vict. c. 118.

22. 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 from time to time of the Company, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Priority of mortgages and debenture stock over other debts.

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A.D. 1878. Provided always, that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or *pari passu* with the interest or dividend on their mortgages or debenture stock, nor shall anything herein-before contained affect any claim for land taken, used, or occupied by the Company for the purposes of their works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application
of moneys.

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

Receipt in
case of per-
sons not *sui*
juris.

24. If any money is payable to a holder of shares or stock in the Company being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Accounts
may be made
up half-
yearly.
34 & 35 Vict.
c. 41.

25. Notwithstanding anything contained in the thirty-fifth section of the Gasworks Clauses Act, 1871, the Company may make up and forward to the local authority half-yearly statements of accounts made up to the thirtieth day of June and the thirty-first day of December respectively instead of the annual statements mentioned in the said section: Provided nevertheless, that the said half-yearly accounts are, as near as may be, in the form and contain the particulars specified in Schedule B. to the said Act annexed.

Pressure of
gas.

26. 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 vested in or under the control of any local or road authority; and the provisions of the Gasworks Clauses Act, 1871, with reference to testing of gas and to penalties, shall, *mutatis mutandis*, apply to such testing of pressure, and two hours

34 & 35 Vict.
c. 41.

previous notice shall be given to the Company of the time and place at which such testing shall be conducted. A.D. 1878.

27. The prescribed number of candles shall be fourteen.

Quality of
gas.

28. The existing testing place of the Company at their present works shall be deemed to be the prescribed testing place for the purpose of the 28th section of the Gasworks Clauses Act, 1871.

Testing
place.

34 & 35 Vict.
c. 41.

29. The prescribed burner shall be an Argand burner having fifteen holes and a seven-inch chimney, and consuming five cubic feet of gas an hour.

Burner.

30. The costs, charges, and expenses of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Company.

Expenses of
Act.

A.D. 1878.

SCHEDULE referred to in the foregoing Act.

PART I.

Certain lands situate in Radcliffe, in the township and parish of Radcliffe, in the county of Lancaster, containing three thousand five hundred and thirty-five square yards or thereabouts, and bounded on the north by Sion Street, on the west by a cotton mill and premises belonging or reputed to belong to or occupied by Robert Booth, junior, and Thomas Hulme Booth, and on the south and east sides thereof respectively by lands belonging or reputed to belong to the Right Honourable the Earl of Wilton.

Certain lands also situate at Radcliffe, in the said township and parish of Radcliffe, containing thirty-four thousand four hundred and ninety-one and six-ninths square yards or thereabouts, and bounded on the south by the River Irwell, on the west by the Lancashire and Yorkshire Railway, and on the north and east sides thereof respectively by lands belonging or reputed to belong to the said Earl of Wilton.

PART II.

No. 1.—Certain lands situate at or near Besses-o'-th'-Barn, in the township of Pilkington, in the parish of Prestwich-cum-Oldham, in the county of Lancaster, containing fifty-four thousand seven hundred and twenty-two square yards or thereabouts, belonging or reputed to belong to the Right Honourable the Earl of Derby, and in the occupation of Eliza Johnson, James Thorpe, John Whittle, and Margaret Hampson, some or one of them, bounded on the south by Thatch Leach Lane, on the west by the railway of the Lancashire and Yorkshire Railway Company from Manchester through Cheetham Hill, Prestwich, Whitefield, to Radcliffe and Bradley Fold, now in course of construction, on the north and east sides thereof respectively by other lands belonging or reputed to belong to the said Earl, and in the occupation of William Allen and Wright Jackson and the said James Thorpe, some or one of them.

No. 2.—Certain lands, part of the Balshaw Meadows Farm, situate in the township of Little Lever, in the parish of Bolton-le-Moors, in the said county of Lancaster, containing in the whole thirty-six thousand seven hundred and twenty-three square yards or thereabouts, belonging or reputed to belong to Thomas Fletcher, senior, Thomas Fletcher, junior, and Matthew Fletcher,

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carrying on business under the style or firm of Messieurs Thomas Fletcher and Sons, and in their own occupation, bounded on the south by a certain road or way known as Marsh Lane, on the west by Tonge Lane, on the north and east sides thereof respectively by lands belonging or reputed to belong to the said Thomas Fletcher, senior, Thomas Fletcher, junior, and Matthew Fletcher, and in their own occupation, and which said lands lie at the junction of Tonge Lane with Marsh Lane aforesaid. A.D. 1878.

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