CHAPTER ccv.

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An Act for extending the limits within which the Cleveland Water Company may supply Water, and for empowering them to construct additional Works and to raise additional Capital; and for other purposes. [11th August 1876.]

WHEREAS the Cleveland Water Company (in this Act called the Company) were incorporated by "The Cleveland Waterworks Act, 1869," (in this Act referred to as the Act of 1869,) and empowered to execute works and to supply with water the Skelton and Saltburn district and other places in the county of York, consisting of the several parishes, townships, and places comprised within the limits defined by the said Act, and for that purpose to raise a share capital of twelve thousand pounds and to borrow four thousand pounds: 32 & 33 Vict. c. cvii.

And whereas by "The Cleveland Waterworks Act, 1871," (in this Act referred to as the Act of 1871,) the limits within which the Company were by the Act of 1869 authorised to supply water were extended, and the Company were authorised to execute additional reservoirs and works, to obtain a further supply of water, to raise an additional share capital of twenty-eight thousand pounds, and to borrow seven thousand pounds: 34 & 35 Vict. c. lxxxiv.

And whereas the trade and population within and adjacent to the limits of the Act of 1871 have increased and are increasing, and it is expedient that the limits within which the Company may supply water be extended, and that they be empowered to construct additional reservoirs and works:

And whereas the Company have expended, or are about to expend, all the moneys they are authorised to raise; and it is expedient that they be authorised to raise additional share and loan capital for the purposes of this Act and for the general purposes of their undertaking:

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And whereas it is expedient that the powers of the Company be in various respects enlarged, and that the Acts relating to the Company be in divers particulars extended and amended:

And whereas the objects 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.

1. This Act may be cited as "The Cleveland Waterworks Act, 1876."

This Act and recited Act to be construed as one Act.

2. The provisions of the recited Acts, so far as they are not expressly repealed or varied by or are not inconsistent with the provisions of this Act, shall be incorporated with this Act, and this Act and the recited Acts shall (save as aforesaid) be read and construed together as one Act.

Provisions of certain general Acts incorporated.

3. The following Acts and parts of Acts (as far as they are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act, namely:

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 the means of enforcing the payment of calls;

The forfeiture of shares for the 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 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 giving of notices; and

The provisions to be made for affording access to the special Act;

Parts I., II., and III. of "The Companies Clauses Act, 1863," as amended by "The Companies Clauses Act, 1869;"

"The Lands Clauses Consolidation Acts, 1845, 1860, and 1869;"

"The Waterworks Clauses Acts, 1847 and 1863; and

The provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof, and with respect to the crossing of roads or other interference therewith: Provided, that in construing the provisions of the latter Act for the purposes of this Act the expression "the railway" and "the centre of the railway" shall respectively mean the works and the boundaries of the works by this Act authorised.

Interpretation of terms.

4. 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 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 was a common simple contract debt, and not a debt or demand created by statute.

Extension of limits for supply of water.

5. The limits within which the Company may supply water shall extend to and include, in addition to the parishes, townships, and places within the limits of the recited Acts, the several entire parishes of Easington and Hinderwell, and the townships of Newton-Mulgrave, Ellerby, and Borrowby, in the parish of Lythe, and all extra-parochial and detached parts of parishes and other places within the same, all in the north riding of the county of York, and the Company may exercise, within the limits as extended by this Act, the like powers as the recited Acts and this Act would have enabled them to exercise therein had the parishes of Easington and Hinderwell and the townships of Newton-Mulgrave, Ellerby, and Borrowby been originally comprised within the limits of the recited Acts.

Power to make waterworks and take lands, &c.

6. And whereas plans and sections describing the lines, situation, and levels of the intended works, and the lands which may be taken for the purposes thereof, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of such lands, have been deposited with the clerk of the peace for the north riding of the county of York (and are in this Act respectively referred to as the deposited plans, sections, and book of reference): Therefore, subject to the provisions of this Act, the Company may make and maintain, in the lines or situations and according to the levels shown on the deposited plans and sections, the reservoirs, filter beds, tanks, catchwaters, conduits, lines of pipes, alterations, deviations, diversions, and other works shown on the deposited plans, among which are comprised the following principal works; namely,

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1. Scaling Dam reservoir. A reservoir situate in the parishes of Hinderwell, Easington, and townships of Rousby and Easington ;
2. Scaling filter beds. A filter bed or filter beds situate in the parish of Hinderwell and township of Rousby ;
3. Haredale reservoir. A reservoir, situate in the parish of Skelton and township of Moorsholme ;
4. Haredale filter beds. A filter bed or filter beds situate in the parish of Skelton and township of Moorsholme ;
5. Goatscar service reservoir. A reservoir situate in the parish of Skelton and township of Kilton ;
6. Grinkle service reservoir. A reservoir situate in the parish and township of Easington ;
7. Easington service tank. A tank situate in the parish and township of Easington;
8. Catchwater No. 1. A catchwater or conduit situate in the parish of Hinderwell and township of Rousby, commencing in a tributary of the Sandwath Beck and terminating in the intended Scaling Dam reservoir firstly described ;
9. Catchwater No. 2. A catchwater or conduit situate in the parishes of Easington and Lofthouse, commencing in the Wapley Beck and terminating in the Scaling Dam reservoir aforesaid ;
10. Line of pipes No. 1. A line of pipes situate in the parish of Hinderwell and township of Rousby, commencing at the Scaling Dam reservoir aforesaid and terminating at the Scaling filter beds aforesaid ;
11. Line of pipes No. 2. A line of pipes commencing in the parish of Hinderwell and township of Rousby and terminating in the Grinkle service reservoir aforesaid in the parish and township of Easington ;
12. Line of pipes No. 3. A line of pipes situate in the parish and township of Easington, commencing at the Grinkle service reservoir aforesaid and terminating at the Easington service tank aforesaid ;
13. Line of pipes No. 4. A line of pipes situate in the parish of Skelton and township of Moorsholme, commencing at the embankment of the Haredale reservoir and terminating at the Haredale filter beds aforesaid ;
14. Line of pipes No. 5. A line of pipes commencing at or in the Haredale filter beds aforesaid in the parish of Skelton in the township of Moorsholm, and terminating in the parish of Skelton and township of Stanghow in or near the village of Lingdale ;

together with all proper approaches, communications, works, and conveniences ancillary or subsidiary thereto, or connected therewith, and may purchase, enter upon, take, and use such of the lands described in the deposited plans and book of reference, and any easement, right, or privilege in or over the same, as they require for the purposes of this Act, and may take, use, and appropriate for the purposes of works authorised by this Act, and of the existing and authorised works of the Company, all waters found in, on, or under any of the said lands and other the lands for the time being belonging to the Company, and may divert or widen such turnpike roads and public carriage roads, or any of them, as are marked for those purposes respectively upon the deposited plans, and may stop up all other roads and ways within the limits of deviation defined on the deposited plans which would interfere with the construction and use of the works by this Act authorised, and may appropriate for the purposes of this Act the sites of the roads and ways so diverted and stopped up so far as the same are respectively bounded on both sides by lands of the Company.

Limits of deviation.

7. In the construction of the works authorised by this Act, and subject to the provisions thereof, the Company may deviate laterally to any extent not exceeding the limits of the lateral deviation shown on the deposited plans, and where on any road no such limits are shown, the boundaries of such road shall be deemed to be such limits, and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding in the case of reservoirs three feet upwards and five feet downwards, and in the case of all other works to any extent not exceeding ten feet; but if it be found necessary or expedient in the construction of any of the reservoirs authorised by this Act to alter the situation of any embankment they may, within the limits of deviation, in the construction thereof, and in the works connected therewith, deviate vertically from the levels of such embankments, reservoirs, and works to any extent not exceeding twenty feet: Provided always, that the Company shall not, in exercise of the powers of lateral deviation hereby given, construct any embankment or wall of any of the reservoirs of a greater height above the general surface of the ground than the corresponding embankment or wall shown on the deposited sections, and three feet in addition.

Accommodation works to be provided for Edmund

8. The Company shall be bound to construct and maintain all such accommodation works as shall be necessary for affording communication across the catchwater drains and for fencing off such drains where the same shall be made on the estate now in the

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Henry Turton's estate.

possession of Edmund Henry Turton, and in case of any dispute arising with respect thereto, the same shall be settled as provided by the sixteenth section of the Waterworks Clauses Act, 1847.

Supply of water to estate of Edmund Henry Turton.

9. After the completion and commencement of user of the Scaling Dam reservoir, the Company shall at all times be bound upon demand to supply with water for all purposes, including purposes of trade, mining, and manufactures, the owners, occupiers, and lessees of whatever kind for the time being of the estates now in the possession of Edmund Henry Turton, within the limits of supply as defined by this Act, and the Company shall not be at liberty, after such demand for water has been made, to supply from the said reservoir any other person within the said limits so long as such demand remains uncomplied with: Provided always, that such owners, occupiers, or lessees as aforesaid shall not be in any way exempted from the provisions of this or the recited Acts or any of the Acts incorporated therewith.

As to sporting.

10. Notwithstanding anything contained in or to be done under this Act, the right of fishing, shooting, and sporting on and over such part of the Scaling Dam reservoir as shall be constructed on the estate of the said Edmund Henry Turton, shall and may at all times be had, exercised, and enjoyed by the owner or owners for the time being of the said estate, together with all usual powers and privileges incidental to the proper enjoyment of the right so reserved to or conferred upon him or them, subject in each case to the following restrictions and provisions; that is to say,

A. That in the exercise of any right conferred by this section, no injury be done to the embankment, works, or bed of the reservoir, and that no act be wilfully done whereby the water therein shall be wasted or fouled;

B. That no rights conferred by this section shall be separately demised or otherwise disposed of wholly or partially by the owner on whom such right is conferred, but that every such right shall always remain annexed to the estate upon the owner or owners of which for the time being the right is so conferred, and shall be exercised only by such owner or owners, or his family, visitors, friends, and servants, or the lessees of the said estate or of the general sporting rights thereon respectively.

Power to take water.

11. Subject to the provisions of this Act, the Company may take, divert, and collect into or by means of the reservoirs, tanks, filtering beds, catchwaters, conduits, pipes, and other works shown on the deposited plans, or some of them, or into any other reservoirs, tanks, filter beds, catchwaters, conduits, pipes, and other works of

the Company, or any of them, and impound, appropriate, and use all or some of the waters of the several brooks and streams called Easington Beck, Rousby Beck, Greenhowe Beck, Scaling Beck, Dam Beck, Boghouse Beck, Stotter Beck, Bitchill (otherwise Birchhill) Beck, Sandwath Beck, and Wapley Beck, and the several tributaries thereof, and all brooks, rivulets, streams, water-courses, surface waters, and other waters and springs which flow into or form part of the said streams, and impound and store such several waters in their reservoirs and works, and from such works supply water within the limits of supply as extended by this Act for domestic and other purposes.

Maintenance of new road.

12. The new road, or diversion of the road, in the township of Rousby (otherwise Roxby) and parish of Hinderwell shown on the deposited plans, when constructed, so far as the same shall be situate on the embankment of the Scaling Dam reservoir, together with the drains, culverts, and fences thereof, shall be for ever maintained by and at the cost of the Company; and so far as such road shall not be constructed on such embankment, such portion of road, and the drains, culverts, and fences thereof, shall be maintained by and at the cost of the Company for the term of one year after the completion thereof, of which completion the certificate of two justices shall be conclusive evidence (which certificate two justices shall give on such completion being proved to their satisfaction), and on the expiration of the aforesaid period of one year, so much of such road as shall not be constructed on the embankment of the said reservoir as aforesaid shall become, and the same shall thenceforth be, a public road, and shall be maintained and repairable as such accordingly.

Powers for compulsory purchases limited.

13. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years after the passing of this Act.

Period for completion of works.

14. If the works authorised by this Act be not completed within seven years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for executing the same, or in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Power to take additional lands by agreement.

15. The Company may from time to time, for the purposes of their undertaking, purchase by agreement, in addition to lands which they are authorised to take by compulsion, any lands not exceeding in the whole ten acres, in addition to any lands which they are by the Act of 1869 and the Act of 1871 authorised to purchase by agreement.

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Power to take easements.

16. The Company may from time to time, subject to the provisions and for any purpose of this Act or the recited Acts, take by agreement, and any person by "The Lands Clauses Consolidation Act, 1845," or otherwise enabled to convey or release lands may grant to the Company, any easement, right, or privilege (not being an easement, right, or privilege of water) in, over, affecting, or belonging to any lands within the Company's limits of supply as extended by this Act, at a yearly rent or otherwise; but in case of a person not enabled otherwise than by "The Lands Clauses Consolidation Act, 1845," to sell lands, then subject and according to the provisions relating to the taking of lands by agreement contained in that Act and "The Lands Clauses Consolidation Act Amendment Act, 1860," for which purpose any such easement, right, or privilege shall be deemed within the meaning of those Acts.

Company to construct filter beds for Lockwood Beck reservoir.

17. The Company shall, within two years from the passing of this Act, construct on land already acquired, or which by the recited Acts they may be authorised to acquire, proper and efficient filtering beds in connexion with their Lockwood Beck reservoir, for the purpose of filtering the water to be supplied from that reservoir.

Extension of time for completion of works.

18. The time limited by section 10 of the Act of 1871 for the completion of the works by that Act authorised is hereby extended and enlarged until the expiration of two years from the passing of this Act.

General powers of the Company as to works not restricted.

19. Subject to the provisions of the Act, nothing in this Act contained shall restrict the Company from extending, enlarging, altering, improving, or removing any of their works at any time and from time to time as occasion may require.

Rents for water supplied to certain tenements to be payable by owners in certain cases.

20. In every case where a house or tenement is let for a term not exceeding three months, the owner of such house or tenement shall be liable to the payment of any rates which may be due and payable from the occupier thereof, but which shall not have been paid by him at or before the time of his ceasing to occupy such house or tenement; and the powers and provisions contained in the Acts of 1869 and 1871, and this Act, for the recovery of rates from occupiers, shall in such cases be construed to apply to the owners of such houses or tenements, and the person receiving the rents of any such house or tenement from the occupier thereof on his own account, or as agent or receiver for any person interested therein, shall, for the purposes of this section, be deemed the owner of such house or tenement.

Water rates payable quarterly in advance.

21. Where water is supplied by the Company at a fixed rate or charge the same shall be payable in advance by equal quarterly payments in every year.

Power to raise additional capital.

22. The Company may from time to time raise, in addition to their existing share capital, any further sums not exceeding in the whole one hundred and twenty thousand pounds, by the creation and issue of new ordinary shares or stock, or new preference shares or stock, or at the option of the Company either wholly or partially by any one or more of those modes, but no share shall be issued of less nominal value than ten pounds.

Limiting amount of calls.

23. Twenty per centum shall be the largest amount of a call which the Company may make in respect of any share, and there shall be an interval of not less than three months between any two calls, and the Company shall not call up more than three fourths of the amount of a share in any year.

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

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

Dividends on new shares or stock.

25. Every person who shall become entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company, and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock, as the case may be.

Rate of dividend on new shares or stock.

26. The prescribed rate of dividend on any new ordinary shares or stock created under the powers of this Act shall not exceed seven pounds per centum per annum, and the prescribed rate of preference dividend on any new preference shares or stock shall not exceed six pounds per centum per annum on the amounts actually paid up in each class.

Provisions as to payment of dividends in different classes of stock or shares.

27. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the maximum authorised dividend on each class of ordinary stock or shares in the capital of the Company a rateable reduction shall be made in the dividends on each class of ordinary stock or shares, and whenever in any half year such net revenues shall be more than sufficient to pay the maximum authorised dividend on the whole of the ordinary stock and shares in the capital of the Company, the surplus

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shall in the first place be applied in making up any deficiency of dividends in any previous years on the shares in the capital of the Company issued under the powers of the Act of 1869, and in the next place shall be applied in making up any deficiency of dividends in any previous years on the shares in the capital of the Company issued under the powers of the Act of 1871.

Receipt clause in case of persons not sui juris.

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

Power to borrow on mortgage.

29. In addition to the moneys authorised by the recited Act to be raised by the Company, they may from time to time, by virtue of this Act, borrow on mortgage any sums not exceeding in the whole thirty thousand pounds, and the Company may, when twenty thousand pounds of the said additional capital has been from time to time issued and accepted, and one half thereof has been paid up, borrow on mortgage any sum or sums not exceeding in the whole five thousand pounds, and when and as each further sum of twenty thousand pounds of the said additional capital has been issued and accepted, and one half 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 thousand pounds in respect of each such twenty thousand pounds; but in none of the before-mentioned cases shall any part of the said respective sums be borrowed until 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 so much of each such portion of additional capital as is to be raised by means of shares have been issued and accepted, and one half of such capital 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 until stock for one half of so much of each such portion of 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 was issued, or their executors, administrators, successors, or assigns, and also, if such 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.

Debenture stock.

30. 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 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.

As to conversion of borrowed money into capital.

31. 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 instead of borrowing, or to convert into capital the amount borrowed under the provisions of this Act, unless in either case all dividends upon such shares are limited to a rate not exceeding five pounds per centum per annum.

Existing mortgages to have priority.

32. All mortgages granted or to be granted by the Company in pursuance of the powers of the former Act, and all mortgages to be granted in substitution for or in renewal or redemption of the same respectively, shall during the continuance of such mortgages, and subject to the provisions of the Acts under which such mortgages were respectively granted, have priority over any mortgages granted by virtue of this Act; and 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.

Date of mortgage to be marked thereon.

33. Every mortgage granted by the Company after the passing of this Act shall be marked with the short title and date of the Act under the powers of which the same is granted.

Arrears may be enforced by appointment of a receiver.

34. 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 one tenth of the amount which the Company are for the time being authorised to borrow on mortgage.

Priority of mortgages over other debts.

35. All money raised or 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: Provided always, that this priority shall not affect any

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claim against the Company or their property in respect of any rent-charge 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 on their mortgage or debenture stock, nor shall anything in this section contained affect any claim for land taken, used, or occupied by the Company for the purposes of the Company's undertaking and works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred upon the Company.

Application of moneys.

36. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied by the Company only to the purposes of this Act and for the general purposes of their undertaking.

Application of authorised funds.

37. The Company may apply to the purposes of this Act any of the moneys which they have in their hands, or which they are by the Act of 1869 and the Act of 1871 authorised to raise, and which may not be required for the purposes to which they are by those Acts made applicable.

Expenses of Act.

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

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