# CHAPTER xx.

An Act for empowering the Dewsbury and Heckmondwike Waterworks Board to construct additional Waterworks and for other purposes. [21st May 1896.]

A.D. 1896.

WHEREAS by the Dewsbury and Heckmondwike Waterworks Act 1876 (in this Act called "the Act of 1876") the Dewsbury and Heckmondwike Waterworks Board (in this Act called "the Waterworks Board" or "the Board") were constituted and incorporated and the members of that Board consist of nominees of the council of the borough of Dewsbury and of the district council for the urban district of Heckmondwike (in this Act called "the district council"):

And whereas the Board under the powers of the Act of 1876 and of the Dewsbury and Heckmondwike Water Act 1890 (in this Act called "the Act of 1890") and other enactments have constructed reservoirs and other works for the supply of water within limits which comprise the borough of Dewsbury and the urban district of Heckmondwike and the water so supplied is distributed by the mayor aldermen and burgesses of the borough (in this Act called "the corporation") and by the district council within their respective districts:

And whereas the undertaking of the Board is vested in them upon trust for the corporation and the district council in the proportions following (that is to say) As to three-fourth parts thereof for the corporation and as to one-fourth part thereof for the district council and all the expenses and receipts of the Board are divisible between the corporation and the district council in the like proportions and the corporation and the district council are respectively entitled (subject as in the Act of 1876 mentioned) to the waters collected or intercepted by the works of the Board in the like proportions:

A.D. 1896.

And whereas it is expedient that the Board should be authorised to construct the aqueduct conduit or lines of pipes in this Act mentioned:

And whereas under the Act of 1876 and other Acts the corporation and the district council were respectively empowered to raise money for the purposes of the authorised works and it is expedient to empower the corporation and the district council to raise further moneys for the purposes of this and other Acts relating to the undertaking of the Board:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas an estimate has been prepared by the Board for the purchase of land for and the execution of the said intended works and completion of authorised works and such estimate amounts to the sum of sixty-four thousand seven hundred pounds and the works included in such estimate are permanent works within the meaning of section 234 of the Public Health Act 1875:

And whereas plans and sections describing the lines situations and levels of the works authorised by this Act 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 lands required or which may be taken for the purposes or under the powers of this Act have been deposited with the clerk of the peace for the west riding of the county of York and are in this Act referred to as the deposited plans sections and book of reference:

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):—

## PART I.—PRELIMINARY.

Short title.

**1.** This Act may be cited as the Dewsbury and Heckmondwike Water Act 1896.

Incorporation of general Acts.

**2.** The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are incorporated with this Act namely:—

The Lands Clauses Acts;

The Waterworks Clauses Act 1847 (except the provisions thereof with respect to the amount of profit to be received by the Undertakers when the waterworks are carried on for their benefit and with respect to the yearly receipt and expenditure

of the Undertakers) Provided that for the purpose of incorporation with this Act and the Act of 1876 section 44 of the Waterworks Clauses Act 1847 shall be read and have effect as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted from that section; and

The Waterworks Clauses Act 1863.

Interpretation.

**3.** Words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there is something in the subject or context repugnant to such construction And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or the Acts 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.

## Part II.—Construction of Works.

Power to construct waterworks.

**4.** The Waterworks Board may make and maintain in the lines and according to the levels shown on the deposited plans and sections the waterwork and other works and conveniences following or some of them (that is to say):—

An aqueduct conduit or lines of pipes (described in the deposited plans as Work No. 9) commencing in the township of Thornhill by a junction with the existing lines of pipes of the Waterworks Board and terminating in the township and parish of Dewsbury by a junction with the existing lines of pipes of the Waterworks Board in the Thornhill Road:

Together with all junctions sluices bridges and appliances necessary or convenient in connexion with the before-mentioned work or necessary or convenient for inspecting maintaining repairing cleansing managing working and using the same.

For the protection of the Thornhill District Council.

**5.** The following provisions shall have and take effect for the protection of the rights privileges powers and authorities of the Thornhill District Council (that is to say):—

(1) Fourteen days before commencing the construction of any part of the aqueduct conduit or lines of pipes by this Act authorised in any part of the roads numbered on the deposited plans 4 and 9 in the parish of Thornhill the Waterworks Board shall give notice of their intention to commence the construction thereof to the Thornhill District Council accompanied by sufficient plans and sections of the proposed works

A.D. 1896.

showing the line and level of such works and in constructing laying down and executing the works the same shall be done under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the said Thornhill District Council and only in accordance with plans and sections line and level to be previously approved by such surveyor and the engineer of the Waterworks Board or in case of difference by an engineer to be appointed by the President for the time being of the Institute of Civil Engineers on the application of either party and the Waterworks Board shall also restore and make good to the satisfaction of the surveyor for the time being of the said district council the roads which may be disturbed or interfered with by or owing to the operations of the Waterworks Board:

(2) Except so far as may be necessary in carrying out the provisions of the preceding subsection nothing in this Act contained shall authorise or empower the Waterworks Board to interfere with any of the reservoirs conduits water-mains pipes or other works belonging to the Thornhill District Council without first obtaining the written consent and approval of the said district council and under the superintendence and control of their surveyor or officer and subject to the provisions of the Waterworks Clauses Act 1847 as though water mains and pipes were expressly mentioned therein.

Power to take lands.

**6.** Subject to the provisions of this Act the Waterworks Board may enter on take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purposes of this Act.

For the protection of the Lancashire and Yorkshire Railway Company.

**7.** For the protection of the Lancashire and Yorkshire Railway Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed between the company and the Waterworks Board be observed and have effect (that is to say):—

(1) Fourteen days before commencing the construction of any part of the aqueduct conduit or lines of pipes by this Act authorised in any part of the occupation road numbered on the deposited plans 13 in the parish of Dewsbury which passes under the Thornhill and Heckmondwike Branch and the main line of the company's railway the Board shall give notice of their intention to commence the construction thereof to the company accompanied by sufficient plans and sections of the proposed works:

A.D. 1896.

(2) In constructing laying down and executing or in effecting the repairs (other than urgent repairs) and renewals of the said aqueduct conduit or lines of pipes the same shall be done under the superintendence and to the reasonable satisfaction of the principal engineer for the time being of the company and only in accordance with plans and sections submitted to and in such manner as shall previously be reasonably approved by him and in all things by and at the expense of the Board who shall also restore and make good the roads which the company is liable to maintain and which may be disturbed or interfered with by or owing to the operations of the Board and all such matters and things shall be constructed executed and done so as not to cause any injury to any such railways bridges or works or interruption to the passage or conduct of the traffic over such railways and if any injury or interruption shall arise from or be in any way owing to any of the acts operations matters and things aforesaid or the bursting leakage or failure of any such mains pipes or works under or near to any such bridge the Board shall make compensation in respect thereof to the company the amount of such compensation together with full costs to be recoverable from the Board by ali and the same means as simple contract debts are recoverable :

(3) The Board shall not acquire any part of so much of the said occupation road as belongs to the company but the Board may acquire and the company shall grant to the Board such an easement therein as may be necessary for constructing and maintaining the said aqueduct conduit or lines of pipes by this Act authorised the amount to be paid for such easement to be settled in case of difference in the manner provided by the Lands Clauses Acts with respect to the purchase of lands otherwise than by agreement :

(4) If any difference shall arise between the company and the Board as to the true intent and meaning of this section or the mode of giving effect thereto the settlement of which is not otherwise provided for the same shall be from time to time referred to and determined by an engineer to be appointed in case of difference by the President for the time being of the Institution of Civil Engineers on the application of either party and the costs of the reference shall be borne and paid as such engineer shall direct.

For the protection of the Calder and Hebble Navigation.

**8.** Whereas the aqueduct conduit or lines of pipes by this Act authorised is intended to be carried across the Calder and Hebble Navigation New Cut (herein-after called "the said canal") in the

A.D. 1896.

parish of Dewsbury and the River Calder which forms the Calder and Hebble Navigation at the point of crossing (herein-after called "the said river") in the parishes of Dewsbury and Thornhill in the west riding of the county of York:

Therefore notwithstanding anything in this Act contained the following provisions shall (unless otherwise agreed between the Waterworks Board and the Company of Proprietors of the Calder and Hebble Navigation herein-after called "the said company of proprietors") apply and have effect for the protection of the said canal and river (that is to say):—

(1) In carrying the aqueduct conduit or lines of pipes over the said canal and river the Waterworks Board shall not alter the line or level of the said canal or river or the towing paths thereof except as herein-after mentioned nor shall they during or at any time after the construction of the said aqueduct conduit or lines of pipes or of the bridges herein-after mentioned or during any future repairs thereof either temporarily or permanently obstruct or impede the navigation of the said canal or river so as to stop or interrupt the traffic thereon or the passage along the towing paths thereof:

(2) The aqueduct conduit or lines of pipes shall be carried across the said canal and river by iron or steel girder bridges with abutments of brick or stone or either of those materials combined and the bridge across the said canal shall be constructed so as to cross the said canal and the towing path thereof as herein-after mentioned by a single span of not less than fifty feet measured at right angles to the face of the abutments of the bridge and the bridge across the said river shall be constructed so as to cross the said river and the towing path thereof by two spans of not less than 125 feet each measured as before described And the abutments of such bridges shall be placed in such positions as shall be agreed on by the engineer of the Waterworks Board and the engineer of the said company of proprietors or in case of difference by an engineer to be appointed by the Board of Trade on the application of either party:

The Waterworks Board shall not in the construction of the said bridges interfere with the existing towing paths on the sides of the said canal and river but shall so construct the said bridges that the present widths of the towing paths shall be preserved throughout:

(3) No part of the soffit or underside of the girders of the said bridges across the canal and river shall be respectively less

than in the case of the canal 15 feet 3 inches and in the case of the river 21 feet 6 inches above the ordinary top water level of said canal and river respectively at the respective points of crossing:

(4) The said bridges and works connected therewith and all future repairs thereof and all temporary works during construction of such bridges shall be constructed under the supervision and to the reasonable satisfaction of the before-mentioned engineer of the said company of proprietors and according to plans and sections and specification to be previously approved by such engineer and the engineer of the Waterworks Board or in case of difference by an engineer to be appointed by the Board of Trade on the application of either party:

(5) The said bridges and works connected therewith shall be completed within eighteen months from the time at which the same are respectively commenced:

(6) The Waterworks Board shall maintain the said bridges in good and substantial repair and in the event of the same being at any time out of repair so as to cause any obstruction or impediment to the navigation of the said canal or river or the traffic thereof the said company of proprietors as aforesaid may after giving the Waterworks Board seven days notice of their intention so to do repair such bridges or remove such obstruction or impediment as the case may be and may recover the expenses of such repair or removal from the Waterworks Board with full costs of suit in any court of competent jurisdiction:

(7) The Waterworks Board shall not without consent of the said company of proprietors as aforesaid take or acquire any right or interest in any lands belonging to the said company of proprietors other than an easement for constructing maintaining cleansing and inspecting the said bridges and works connected therewith under and subject to the conditions herein-before contained:

(8) In case during the execution of the works of the said bridges or of any subsequent alteration or repair thereof or of any failure or defect therein or of any works or operations of the Waterworks Board or their contractors or other persons employed by them any boat barge or other vessel passing or intended to pass along the said canal or river or the horses locomotives or other tractive or propellant power moving the same shall at any time be stopped or interrupted in their passage along the said canal or river or towing paths then and in every such case the Waterworks Board shall pay to the said company of proprietors as

A.D. 1896.

aforesaid as and by way of liquidated damages the sum of ten pounds for every hour during which any such stoppage or interruption shall continue after twelve hours notice of such stoppage or interruption given by the said company of proprietors to the Waterworks Board and if such stoppage or interruption shall continue beyond seventy-two consecutive hours after such notice and shall be occasioned by any wilful act or omission on the part of the Waterworks Board or of any contractors or persons employed by them then and in every such case the Waterworks Board shall pay as and by way of liquidated damages the sum of twenty pounds for every hour during which such stoppage or interruption shall continue Provided that nothing herein contained shall prevent the said company of proprietors from recovering against the Waterworks Board beyond the amount of such liquidated damages any special damage that may be sustained by them or that they may be liable for by reason of any act or default of the Waterworks Board or their contractors or other persons employed by them Provided always that in assessing such special damage the amount of the liquidated damages shall be taken into account as forming part of any such special damage and the said company of proprietors are hereby authorised to sue for and recover any such liquidated or special damages with full costs of suit in any court of competent jurisdiction.

Power to grant easements &c.

**9.** Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Waterworks Board any easement right or privilege (not being an easement right or privilege of water in which others than parties to the agreement have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the Lands Clauses Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants easements rights and privileges as aforesaid.

Restriction on taking houses of labouring class.

**10.** The Waterworks Board shall not under the powers of this Act take ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but which have been or shall be subsequently so occupied.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working

for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Power to deviate.

**11.** In constructing the aqueduct conduit or lines of pipes by this Act authorised the Waterworks Board may deviate from the lines thereof to any extent not exceeding the limits of 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 may also deviate from the levels shown on the deposited sections to any extent not exceeding three feet upwards and ten feet downwards but so that no part of such aqueduct conduit or lines of pipes shall be above the surface of the ground except as shown on the deposited sections.

Period for compulsory purchase of lands.

**12.** The powers of the Waterworks Board for compulsory purchase of lands under this Act shall cease after the expiration of three years after the passing of this Act.

Period for completion of works.

**13.** If the works by this Act authorised are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof respectively or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as is then completed.

Power to take additional lands by agreement.

**14.** The Waterworks Board may from time to time for any of the purposes of their water undertaking purchase by agreement any lands not exceeding twenty acres in addition to the lands which they are authorised to take by compulsion but the Board shall not create or permit the creation or continuance of any nuisance on any such lands or use such lands for any building except offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with or required for the purposes of their waterworks.

Power to hold lands needful to prevent fouling and to protect waterworks.

**15.** The Waterworks Board may hold any lands acquired by them under this Act and which they may deem necessary for the purpose of preventing the fouling of the water of any stream flowing into any of their waterworks or for the protection of their waterworks against nuisances encroachment or injury and so long as such lands shall be so held they shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts but the

A.D. 1896.

Waterworks Board shall not erect any buildings on the lands while so held by them except offices and dwellings for persons in their employment and such buildings and works as may be incident to connected with or required for the purposes of their waterworks.

New works to form part of undertaking.

**16.** The works by this Act authorised shall for all purposes form part of the undertaking of the Waterworks Board and be held by them on trust for the corporation and the district council in the like proportions as the rest of the undertaking and the provisions of the recited and other Acts relating to the undertaking shall be read and have effect accordingly.

As to Ravensthorpe contract.

**17.** The third subsection of section 11 of the Act of 1890 relating to the contract between the corporation and the Ravensthorpe Local Board (now called the urban district council of Ravensthorpe) is hereby repealed and the contract there referred to shall as from the third day of February one thousand eight hundred and ninety-six be deemed to have been made between the Waterworks Board and the said urban district council and the water therefor shall be supplied by and the profits arising therefrom shall belong to the Waterworks Board and shall be accounted for and applied accordingly.

The Waterworks Board shall carry out and shall pay for all works necessary for giving the supply to the Ravensthorpe Urban District Council from the mains of the Waterworks Board.

## Part III.—Borrowing for Works.

Power to borrow.

**18.** Subject to the provisions of this Act it shall be lawful for the corporation and for the district council respectively to borrow for the purposes of acquiring the land and executing the works by this or any prior Act authorised to be acquired and executed as follows (that is to say) :—

The corporation in addition to any moneys they have borrowed or are authorised to borrow may from time to time under the authority of this Act borrow at interest on the security of the revenues derived from their share of the undertaking of the Waterworks Board and of all rates and rents leviable by the corporation in respect of the supply of water and if they think fit as a collateral security of the general district rate leviable within the borough such sums as they from time to time think requisite not exceeding in the whole the sum of forty-nine thousand five hundred and forty pounds :

The district council in addition to any moneys they have borrowed or are authorised to borrow may from time to time under the authority of this Act borrow at interest on the security of the

revenues derived from their share of the undertaking of the Waterworks Board and of all rates and rents leviable by the district council in respect of the supply of water and if they think fit as a collateral security of the general district rate leviable within the Heckmondwike district such sums as they from time to time think requisite not exceeding in the whole the sum of fifteen thousand one hundred and eighty pounds.

Period of repayment.

**19.** All money borrowed under the foregoing provisions of this Act shall be repaid within sixty years from the date or respective dates of borrowing the same either by equal yearly or half-yearly instalments of principal or of principal and interest or by means of sinking funds or partly by such instalments and partly by sinking funds and in regard to any sinking fund formed under this Act by the district council the provisions of section 15 of the Local Loans Act 1875 shall apply except that the district council shall not be entitled to invest any such sinking fund in their own securities or in securities transferable by delivery.

Provisions of Corporation Acts to apply to moneys borrowed by them.

**20.** The following sections of the Dewsbury Improvement Act 1884 and of the Dewsbury Improvement Act 1891 shall with the necessary modifications and subject to the provisions of this Act apply in respect of moneys borrowed by the corporation under this Act The sections of the said Act of 1884 are—

Section 211. Provisions as to mortgages ;
Section 216. Provisions as to coupons for interest on mortgages ;
Section 217. Corporation not to regard trusts ;
Section 218. Power to borrow under Local Loans Act 1875 :

And the section of the said Act of 1891 is—

Section 30. Sinking funds Provided that the payments to the sinking fund shall not be calculated on a higher rate of interest than three per cent. per annum.

As to mortgages by district council.

**21.**—(1) The following sections of the Public Health Act 1875 shall extend and apply in respect of moneys borrowed by the district council under this Act (that is to say) :—

Section 236. Form of mortgage ;
Section 237. Register of mortgages ;
Section 238. Transfer of mortgages ;
Section 239. Receiver may be appointed in certain cases.

(2) Provided that the district council may if they think fit raise all or any moneys which they are authorised to borrow under this Act by the issue of debentures debenture stock or annuity certificates under and subject to the provisions of the Local Loans Act 1875.

A.D. 1896.

Power to re-borrow.

**22.** If the corporation or the district council pay off any moneys borrowed by them respectively under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed moneys they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the period prescribed for repayment of the original loan and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the corporation and of the district council with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such re-borrowing.

Application of money borrowed.

**23.** Moneys borrowed by the corporation or by the district council under this Act shall be applied only for purposes for which they are respectively authorised to be borrowed and to which capital is properly applicable.

Annual return to Local Government Board with respect to sinking fund.

**24.** The town clerk of the borough of Dewsbury and clerk of the district council respectively shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year In the event of any wilful default in making such return the town clerk or clerk as the case may be shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in a summary manner If it appear to the Local Government Board by such return or otherwise that the corporation or district council have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and

invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court The provisions of this section shall apply mutatis mutandis to appropriations and annual repayments.

Costs of Act.

**25.** All the costs charges and expenses preliminary to and of and incidental to preparing and obtaining this Act (including the costs charges and expenses of the district council in opposing or otherwise in relation to the Bill for this Act) as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Waterworks Board and the corporation and district council are hereby respectively empowered to borrow the amount of their respective contributions to such costs charges and expenses and the provisions of this Act shall apply to such borrowing except that the sums so borrowed shall be repayable within ten years from the respective dates of borrowing the same.

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