CHAPTER lxxxiii.

An Act for the granting of further Powers to the Fylde Waterworks Company and for other purposes. A.D. 1891.

[3rd July 1891.]

WHEREAS the Fylde Waterworks Company (in this Act called "the Company") were incorporated by the Fylde Waterworks Act 1861 and acting under the powers of that Act the Fylde Waterworks Act 1870 the Fylde Waterworks Act 1874 the Fylde Waterworks Act 1881 and the Fylde Waterworks Act 1888 (which Acts are in this Act referred to collectively as "the former Acts") the Company have constructed an extensive system of waterworks whereby they supply with water various parishes and places in the county palatine of Lancaster: 24 & 25 Vict. c. cliv. 33 & 34 Vict. c. xix. 37 & 38 Vict. c. xxxvii. 44 & 45 Vict. c. xxxii. 51 Vict. c. i.

And whereas in view of the increasing population and demand for water within the limits of the former Acts it is expedient that the Company be empowered to construct additional works and obtain a further supply of water:

And whereas it is expedient that the Company be authorised to raise additional capital for the purposes of this Act and for the general purposes of their undertaking:

And whereas it is expedient that the powers of the Company be enlarged and that the Acts relating to the Company be extended and amended:

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

And whereas plans and sections showing the lines situations and levels of the works authorised by this Act and also a book of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes of or under the powers of this Act were duly deposited with the clerk of the peace for the county palatine of Lancaster and are herein-after 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

A.D. 1891.

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 Fylde Water Act 1891.

Incorporation of general Acts.

2. The following Acts and parts of Acts namely :—

The Lands Clauses Acts ;

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof (but for the purpose only of constructing the reservoirs and works immediately connected therewith by this Act authorised and such portion of the conduits or lines of pipes by this Act authorised as are to be made in tunnel) ; and

The Waterworks Clauses Acts 1847 and 1863 except the words in section 44 of the former of such Acts "with the consent in "writing of the owner or reputed owner of any such house or "of the agent of such owner" ;

so far as the same are applicable for the purposes of and not inconsistent with the provisions of this Act are incorporated with and form part of this Act :

And the provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say) :—

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

The payment of subscriptions and 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 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 provision to be made for affording access to the special Act by all parties interested :

And Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 shall (subject to the provisions of this Act) extend and apply to the Company and the additional capital by this Act authorised to be raised.

Interpretation.

3. Terms to which meanings are assigned in Acts incorporated wholly or in part with this Act or which have therein special

meanings have in this Act (unless varied thereby) the same respective meanings and in this Act and (for the purposes of this Act) in Acts incorporated wholly or in part with this Act the expression—

"Superior courts" or "court of competent jurisdiction" or any other like expression shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt and not a debt or demand created by statute:

In the Railways Clauses Consolidation Act 1845 for the purposes of this Act—

The expressions "the railway" "the work" and "the centre of the railway" respectively mean the said portions of conduits and lines of pipes and the boundaries thereof by this Act authorised.

Power to construct works.

4. Subject to the provisions of this Act the Company in the lines and situations and upon the lands shown on the deposited plans and according to the levels shown on the deposited sections may make and maintain in the county palatine of Lancaster the conduits lines of pipes and other works shown on the deposited plans among which are the following principal works (that is to say):—

(*a.*) An aqueduct culvert or conduit (Conduit Number 1) wholly in the township of Bleasdale in the parish of Lancaster and the township of Barnacre-with-Bonds in the parish of Garstang commencing in the said township of Bleasdale in the Calder River and terminating in the said township of Barnacre-with-Bonds in the North Barnacre Reservoir of the Company;

(*b.*) An aqueduct culvert or conduit (Conduit Number 2) wholly in the said township of Bleasdale in the said parish of Lancaster commencing in the stream or watercourse called Calder Dyke and terminating by a junction with Conduit Number 1 at a point therein about ten yards from the said commencement thereof;

(*c.*) An aqueduct culvert or conduit (Conduit Number 3) wholly in the said township of Barnacre-with-Bonds in the said parish of Garstang commencing by a junction with Conduit Number 1 at a point about fourteen yards east of its said point of termination and terminating in the Grizedale Reservoir of the Company.

As to filtration of certain waters.

5.—(1.) Before the expiration of twelve months from the passing of this Act the Company shall within two hundred yards from the foot of the slope of the embankment of the Barnacre Reservoirs and the Grizedale Reservoir respectively or one of them construct and thenceforward maintain a filter bed or filter beds for filtering and shall effectually filter through such filter bed or filter beds the water discharged from those respective reservoirs before it shall enter the pipes of the Company for distribution and if any difference

A.D. 1891.

should arise between the Company on the one hand and the mayor aldermen and burgesses of the borough of Blackpool the improvement commissioners for the district of Fleetwood the improvement commissioners for the district of Lytham and the local board for the local government district of St. Annes-on-the-Sea or any one or more of those bodies on the other hand whether such filtration is effectual such difference shall be settled by a hydraulic engineer to be appointed (unless otherwise agreed on) by the Board of Trade on the application of either party and the costs of the settlement shall be in the discretion of such engineer.

(2.) If the Company make default in complying with any of the provisions of this section they shall on summary conviction thereof be liable to a penalty not exceeding ten pounds for every day on which such default shall continue after complaint in writing thereof shall have been sent to their principal office and such penalty may be recovered by any urban sanitary authority within the limits of the Acts of the Company.

Company to cleanse Weeton reservoir.

6. The Company shall within six months after the passing of this Act draw off all the water from the Weeton Reservoir and thoroughly cleanse the same and shall thereafter maintain the said reservoir thoroughly clean and if any difference shall arise between the Company on the one hand and any urban sanitary authority within the limits of the Acts of the Company on the other hand whether such reservoir has been so thoroughly cleansed and kept clean such difference shall be settled by a hydraulic engineer to be appointed (unless otherwise agreed) by the Board of Trade on the application of either party and the costs of the settlement shall be in the discretion of the engineer.

If the Company make default in complying with the provisions of this section they shall be liable to a penalty not exceeding ten pounds for every day on which such default shall continue after complaint in writing thereof shall have been sent to their principal office.

All penalties under this section may be recovered summarily by any of the urban sanitary authorities mentioned in this section.

For protection of the Earl of Bective.

7. For the purpose of preventing trespass upon the lands and hereditaments of the Right Honourable the Earl of Bective his heirs and assigns no servant of the Company shall after the completion of the conduits and other works by this Act authorised except for the purpose of executing repairs go upon or pass along any part of the strip of ground extending between the points marked with the letters G and B and E and F on a copy of the deposited plans signed by William Joseph Dickson on behalf of the Company and by Messieurs Upton Atkey and Upton on behalf of the said Earl unless such servant shall be wearing some distinguishing uniform or badge or hold some written or printed authority

and be engaged on the business of the Company and every time any servant of the Company shall act in contravention of this written demand the Company shall dismiss him from their employment.

For protection of William Garnett.

8. For the protection of William Garnett or other the owner or owners for the time being of the Bleasdale Estate in the county of Lancaster (all of whom are in this section included in the expression "the owner") the following provisions shall have effect (that is to say):—

(1.) The Company shall not without the consent of the owner enter upon take or use temporarily or permanently any lands of the owner except so much thereof not exceeding three-quarters of an acre in extent as may be necessary for the works connected with the intake but the Company may acquire and the owner shall grant to the Company an easement over such lands for the purpose of constructing maintaining cleansing repairing and renewing the works by this Act authorised:

(2.) In constructing the works by this Act authorised where the same are in or under any lands of the owner the Company shall cover the same with at least three feet of earth except at two manholes and two intakes and the necessary works in connexion therewith respectively.

Power to make subsidiary works.

9. The Company in addition to the foregoing works may from time to time upon any lands acquired or to be acquired by them make and maintain all such cuts channels catchwaters aqueducts culverts conduits tunnels drains sluices overflows waste-water channels by-washes weirs gauges wells tanks banks walls approaches engines machinery and appliances as may be necessary or convenient in connexion with the before-mentioned works or any of them but nothing in this section shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused by them.

Power to take lands and waters.

10. Subject to the provisions of this Act the Company may enter upon take and use such of the lands shown on the deposited plans and described in the deposited 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 divert collect impound and use for the purposes of the Company the waters of the Calder Dyke and the Calder River and any waters found in on or under any lands for the time being belonging to the Company or which will or can be intercepted by the works by this Act authorised.

Limits of deviation.

11. In the construction of the works authorised by this Act the Company may deviate laterally to any extent not exceeding the limits of the lateral deviation shown on the deposited plans and

A.D. 1891.

where on any road no such limits are shown the boundaries or fences 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 ten feet upwards and ten feet downwards but not so as to raise an aqueduct culvert or conduit above the surface of the ground unless so shown on the plans and then only to the extent so shown and two feet in addition.

Period for compulsory purchase of lands.

12. 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 from the passing thereof.

Period for completion of works.

13. If any works authorised by this Act are not completed within the period of ten years from the passing of this Act then on the expiration of such period the powers by this Act granted to the Company for executing the same or in relation thereto shall cease except as to so much thereof as is then completed but nothing in this Act shall restrict the Company from extending enlarging altering reconstructing or removing any of their tanks tunnels engines sluices machinery apparatus appliances mains pipes or other works or plant at any time and from time to time as occasion may require.

Power to take additional lands by agreement.

14. The Company may from time to time for the purposes of their undertaking acquire by agreement either in fee simple or for any term or terms of years in addition to lands which they are already authorised to hold under the powers of the former Acts or to take by compulsion under the powers of this Act any lands not exceeding in the whole one hundred acres or any easement right or privilege therein thereunder or thereover (not being an easement or privilege of water) but the Company shall not deal with such lands so as to create or permit the creation of a nuisance nor use any such lands for any building except buildings required for the undertaking of the Company.

Power to take easements.

15. Persons empowered by the Lands Clauses Acts or otherwise enabled to sell and convey or release lands may subject to the provisions of those Acts and of this Act grant to the Company in fee either absolutely or in consideration of any yearly or other rent any easement interest right privilege or power (not being an easement of water) required for the purposes of this Act in over affecting or belonging to any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements interests rights privileges and powers as aforesaid respectively.

Sale of superfluous lands.

16. The Company may subject to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of

superfluous lands from time to time sell lease or otherwise dispose of in such manner and to such persons as the Company think fit any lands houses or other property for the time being belonging to the Company which they do not require for the purposes of their undertaking and in any such sale or lease the Company may reserve to themselves all or any water or water rights or other easements belonging to the lands sold or leased and may make the sale or lease for such consideration and subject to such reservations conditions restrictions or provisions and generally upon such terms and conditions as the Company think fit.

Restriction on taking houses of labouring class.

17.—(1.) The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring ass as tenant or lodgers.

(2.) For the purposes of this section the expression "labouring ass" includes mechanics artizans labourers and others working or 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.

Repeal of proviso to s. 40 of the Act of 1861.

18. The following proviso to section 40 of the Fylde Waterworks Act 1861 (namely) "Provided that where the supply is to "hotels or boarding-houses or houses commonly used or let as "lodging-houses the rate shall be one third higher than those "rates" is hereby repealed as from the thirty-first day of August one thousand eight hundred and ninety-one.

Company to construct sewer in Calder Vale.

19. Before the thirty-first of December one thousand eight hundred and ninety-one the Company shall construct to the reasonable satisfaction of the rural sanitary authority of the district a sewer or drain not exceeding nine inches in diameter in the line coloured red (or as near thereto as may be) on a plan signed by Edward Garlick on behalf of the Company and by Albert Simpson on behalf of the said rural sanitary authority for the purpose of sewering the cottages now erected at Calder Vale and in case of any difference arising between the Company and the rural sanitary authority under this section such difference shall be determined by an engineer to be appointed (unless otherwise agreed on) on the application of either party by the president of the Institution of

A.D. 1891.

Civil Engineers and the costs of the arbitration and of the award shall be in the discretion of such engineer.

Water for engine purposes only is to be taken from Calder river for certain mills.

20. No water shall be taken from the Calder River by the owners lessees or occupiers of the old Calder Vale Spinning Mill or the present Calder Vale Weaving Shed respectively except such as may be taken by a pipe of not more than six inches internal diameter for the use of any steam engine erected at such mill and shed respectively and all water taken for such purposes (except inevitable waste) shall be returned into the said river immediately below the said mill and shed respectively and except as aforesaid the Company shall within six months after the passing of this Act cut off all communication between the said river and the goit leading therefrom to the said mill and shed respectively so as to effectually prevent except as aforesaid the passage thereto of any water from the said river Any person committing a breach of this enactment shall for every such offence be liable to a penalty not exceeding five pounds and to a further penalty not exceeding forty shillings for every day on which such offence shall continue after conviction therefor and such penalties shall be recoverable summarily by the said rural sanitary authority.

Water from Oakenclough paper works to be filtered.

21. From and after the expiration of six months from the passing of this Act all water which has been fouled in the process of paper-making and discharged into the Calder River from the Oakenclough paper works shall be filtered so as to free such water from all solid noxious or poisonous matter In the event of any wilful or negligent breach of this enactment the occupiers of the said works shall be liable for every such breach to a penalty not exceeding five pounds and such penalty shall be recoverable summarily by the rural sanitary authority aforesaid.

Company may raise additional capital.

22. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys they are authorised to raise and which they do not require for the purposes for which such moneys were authorised to be raised and may (subject to the provisions of Part II. of the Companies Clauses Act 1863) for the purposes of this Act and for the general purposes of their undertaking from time to time raise any additional capital not exceeding in the whole one hundred thousand pounds by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by one or more of those modes which shares or stock shall for all purposes form part of the general capital of the Company.

As to vesting of new shares or stock.

23. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such share or any stock vest in the person or Corporation

accepting the same unless and until the full nominal amount of such share or stock (if the same be issued at or above par) together with any premium obtained upon the sale thereof shall have been paid in respect thereof Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce including any premiums which may be obtained on the sale thereof the sum of one hundred thousand pounds.

Votes in respect of new shares or stock.

24. The proprietors of any ordinary 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 thereby would have entitled them to if the same had been original shares or stock of the Company.

Limit of dividend on new capital.

25. The Company shall not in any one year make out of their profits any larger dividend on the additional share capital to be raised under the powers of this Act than at the rate of five pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital and of four pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend on the ordinary share capital which shall have fallen short of the said sum of five pounds per centum per annum.

Dividends on different classes of shares or stock to be paid proportionately.

26. In case in any year the net revenue of the Company applicable to dividend shall be insufficient to pay the full amount of the maximum dividend to which each class of ordinary shares or ordinary stock in the capital of the Company is entitled a proportionate diminution shall be made in the rate of dividend then to be paid in respect of each class.

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

27. Notwithstanding anything in this Act contained the Company shall when any new 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

A.D. 1891.

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 except that if any bidding or offer by tender of any holder or holders of shares or stock be the same in amount as any bid or offer made by any other person the bidding or offer of such holder or holders of shares or stock shall be accepted in preference.

Time for paying up shares or stock sold by auction.

28. 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 premium given by any purchaser at such sale shall be paid to the Company within three months after such sale.

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

29. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing 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 limits of the supply of water by the Company.

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

30. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserved price put upon the same respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863 Provided always that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender subject to and in accordance with the foregoing provisions of this Act with respect to the sale of shares and stock except that the reserve price put upon such shares or stock may upon such second auction or tender (if the directors of the Company think fit) be less than the nominal amount thereof.

Application of premium arising on issue of shares or stock.

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

Power to borrow in respect of additional

32. The Company in respect of the additional capital of one hundred thousand pounds which they are by this Act authorised to raise may from time to time borrow on mortgage any sum or

sums not exceeding in the whole twenty-five thousand pounds 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 said portion of the additional capital in respect of which the borrowing powers are to be exercised 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 each portion 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 so far as 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.

capital authorised by this Act.

33. Section 11 (for appointment of a receiver) of the Fylde Waterworks Act 1881 is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings pending at the passing of this Act under any such provision.

Repealing existing provisions as to 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 and 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.

Appointment of receiver.

35. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament and which shall be subsisting

Existing mortgages to have priority.

A.D. 1891.

at the time of the passing hereof 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 to be granted by virtue of this Act but nothing in this section shall affect the priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture stock.

36. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 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.

As to conversion of borrowed money into capital.

37. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the creation and issue of debenture stock or any part thereof respectively by the creation of shares or stock instead of by borrowing or to convert into capital any money borrowed under the powers of this Act unless in either case all dividends upon such shares or stock are limited to a rate not exceeding five pounds per centum per annum in the case of ordinary shares and stock and four pounds per centum per annum in the case of preference shares or stock.

Application of sums raised under this Act.

38. All and every part of the sums of money which the Company are by this Act authorised to raise by new shares or stock or by borrowing shall be applied only to the purposes of this Act and to the general purposes of their undertaking being in all cases purposes to which capital is properly applicable.

Costs of Act.

39. All costs charges and expenses preliminary to and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, East Harding Street, Fleet Street, E.C.; or
JOHN MENZIES & Co., 12, Hanover Street, Edinburgh, and
88 and 89, West Nile Street, Glasgow; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.