CHAPTER xxxvii.

An Act to enable the Fylde Waterworks Company to make additional Works; to amend the Fylde Waterworks Act, 1861, and the Fylde Waterworks Act, 1870; to increase the Capital of the Company; to extend and define their Limits of Supply; and for other purposes. [30th June 1874.]

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WHEREAS by the Fylde Waterworks Act, 1861, the Fylde Waterworks Company (herein-after called "the Company") were incorporated, and were authorised to erect and maintain waterworks and supply water within the limits therein mentioned, and to raise moneys by the creation of shares and by borrowing, and by the Fylde Waterworks Act, 1870, the Company was authorised to raise further sums of money by the creation of shares and by borrowing, and to extend their limits of supply, and to reduce the number of their directors: 24 & 25 Vict. c. cliv.

And whereas under the Fylde Waterworks Act, 1861, the Company have raised as ordinary share capital the sum of sixty thousand pounds, which they were authorised to raise in shares by that Act, and have borrowed the sum of fifteen thousand pounds by that Act authorised to be borrowed:

And whereas under the Fylde Waterworks Act, 1870, the Company have raised as ordinary share capital fifteen thousand pounds, part of the thirty thousand pounds share capital by that Act authorised, and ordinary shares for the remaining fifteen thousand pounds of that capital have been issued and accepted, and are in course of being paid up, but the Company have not borrowed any part of the sum of seven thousand five hundred pounds they were by that Act authorised to borrow:

And whereas the population and the demand for water within the limits of the said recited Acts has much increased and is still increasing, and it is expedient to enable the Company to make additional reservoirs and other works, to enlarge their existing mains and pipes, and to lay additional mains and pipes, and it is expedient that the Company should be authorised to purchase further lands

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by compulsion or agreement, and to raise further sums of money for the better and more effectually carrying out the objects and purposes of the said undertaking, and that the recited Acts should be amended as herein-after provided:

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

And whereas plans and sections describing the lines, situations, and levels of the intended reservoirs and other works, 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 the lands in the line of the proposed works, or within the limits of deviation as defined on the plans, and describing those lands, have been deposited with the clerk of the peace for the county of Lancaster, and which are in this Act referred to as the deposited plans, sections, and books of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may for all purposes be cited as "The Fylde Waterworks Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," "The Companies Clauses Consolidation Act, 1845," Parts I., II., and III. of "The Companies Clauses Act, 1863," "The Companies Clauses Act, 1869," and "The Waterworks Clauses Act, 1847 and 1863," and the provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the crossing of roads and other interference therewith, and with respect to the temporary occupation of lands near the railway during the construction thereof, shall (except so far as the same are expressly varied by this Act) be incorporated with and form part of this Act; and the provisions of "The Railways Clauses Consolidation Act, 1845," shall be read so as to apply only to the construction of the reservoirs and other works by this Act authorised, and the works immediately connected therewith, and as if such reservoirs and works were therein referred to instead of the railway, and the boundaries of the said reservoirs and works were therein mentioned instead of the centre of the railway, and the prescribed limits shall be two hundred yards from the margin of the intended reservoirs and works.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated

herewith have the same respective meanings, unless there shall be something in the subject or context repugnant to such construction; and for the purposes of this Act the expression "superior courts" or "courts of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall 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. A.D. 1874.

Extension of limits.

4. The limits within which the Company may supply water shall, in addition to the limits specified in the fourth section of the Fylde Waterworks Act, 1861, and the fourteenth section of the Fylde Waterworks Act, 1870, include the townships of Stalmine-with-Stainall and Preesall-with-Hackinsall, all in the parish and county of Lancaster.

Power to construct works.

5. Subject to the provisions of this and the recited Acts, the Company may make, construct, and maintain the works herein-after described in the line and according to the levels and upon the lands delineated on the deposited plans and sections and described in the deposited book of reference, and for that purpose may purchase absolutely for a sum in gross or in consideration of an annual rent-charge, and may enter upon, take, and use such of the lands delineated upon the said plans and referred to in the said book of reference as are necessary for that purpose. The works herein-before referred to and authorised by this Act are,—

1. A reservoir or reservoirs, and conduits, pipes, and other conveniences connected therewith, and all necessary approaches thereto, to be situate on Barnacre Moor, at or near the site of the Sconce Tarn in the parish of Garstang and township of Barnacre-with-Bonds, and containing sixty acres or thereabouts:
2. A reservoir or reservoirs, with conduits, pipes, and other conveniences connected therewith, and all necessary approaches thereto, to be situate on the south-west side of the public road from Kirkham to Weeton, near Bradley's Farmhouse, in the parish of Kirkham and township of Weeton-with-Preese, and containing eight acres or thereabouts:
3. A reservoir or reservoirs, with conduits, pipes, and other conveniences connected therewith, and all necessary approaches thereto, situate at or near "Westby Mill," in the parish of Kirkham and township of Westby-with-Plumpton, and containing three and a half acres or thereabouts:
4. An aqueduct or conduit, commencing at a point in the Grizedale Brook in the township of Nether Wyersdale in the parish of Garstang, situate three hundred and sixty yards

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in a north-westerly direction from Stake House, and passing thence from and through the parishes, townships, and places of Lancaster, Garstang, Bleasdale, Nether Wyersdale, and Barnacre-with-Bonds, and terminating at the north-easterly corner of the reservoir firstly herein-before described:

5. A road entirely in the township of Barnacre-with-Bonds and parish of Garstang, to commence in Braiddale Bank Lane at a point about fifteen yards north-eastward of Moor House, and to terminate at the south-easterly corner of the reservoir firstly herein-before described:

6. An aqueduct or conduit commencing at the north-easterly corner of the reservoir firstly herein-before described in the township of Barnacre-with Bonds, and passing thence through the township of Barnacre-with-Bonds and Nether Wyersdale, and terminating at the foot of the waste watercourse of the existing Grizedale reservoir in the township of Nether Wyersdale, all in the parish of Garstang:

7. An aqueduct or conduit commencing in the township of Barnacre-with-Bonds in the reservoir firstly herein-before described, at a point about three hundred and forty yards south-westward of the north-easterly corner of that reservoir, and passing thence through the townships of Barnacre-with-Bonds and Nether Wyersdale, and terminating in the stone basin at the foot of the embankment of the Grizedale reservoir in the township of Nether Wyersdale, all in the parish of Garstang:

And all which said works, lands, and property will be situate in the county of Lancaster.

For the protection of the Nether Wyersdale estate.

6. For the protection of the Nether Wyersdale estate in the parish of Garstang, and of Peter Ormrod, or other the owner for the time being of that estate, the following provisions shall have effect; that is to say,

1. Except as is in this section otherwise expressly provided, nothing in this Act contained shall take away, lessen, or abridge any of the rights, powers, and privileges conferred on the owner of the Nether Wyersdale estate by the twenty-sixth section of the Fylde Waterworks Act, 1861:
2. The sixth, eighth, tenth, twelfth, and seventeenth sub-sections of the twenty-sixth clause of that Act shall be and the same are hereby repealed from and after the passing of this Act:
3. Nothing in the recited Act or this Act shall authorise the Company to take, impound, divert, or use any spring, surface, or other waters which now do or hereafter shall arise, flow, or be found in or upon any land of the said

Peter Ormrod lying west or north-west of the Grizedale reservoir, or which do not now naturally flow or drain into such reservoir:

4. No water shall be diverted from the Grizedale brook into the Barnacre reservoir, save such surplus as the same brook may from time to time yield above the quantity of one fourth of a cubic foot of water in every second of time, and such minimum quantity of one fourth of a cubic foot of water in every second of time shall at all times flow into the said Grizedale reservoir, save only when the brook shall not immediately above the point of diversion of the water to the said Barnacre reservoir yield that quantity, and then the Company shall let pass into the Grizedale reservoir the whole yield of that brook; and in order to insure the due flow of water into the said Grizedale reservoir, the Company shall provide and maintain at the point of diversion of the waters of the said Grizedale brook to the said Barnacre reservoir proper and sufficient gauges, so constructed as that none of the waters of the Grizedale brook shall flow into the said Barnacre reservoir, except the surplus beyond the minimum quantity of one fourth of a cubic foot per second:

5. All the water which the Company take from the Grizedale brook and its tributarics, or from the Grizedale reservoir or the intended Barnacre reservoir, or any conduit, pipe, or work leading from or connected with such brook, tributaries, or reservoirs, shall be passed into the existing or any substituted gauge basin of the Company at the foot of the embankment of the Grizedale reservoir; and whenever any water shall be drawn or taken out of that gauge basin, one third of such water shall at the same time be afforded to and passed down the Grizedale brook, and shall not be taken or used by the Company; provided that the minimum compensation which the Company shall deliver from the said gauge basin into the said brook shall be as follows; that is to say,

Until the expiration of four years from the passing of this Act, or such earlier time as the Barnacre reservoir shall be completed, or water be impounded therein, ten thousand gallons in every hour during the months of June, July, August, and September, and fifteen thousand gallons in every hour during the remainder of the year;

After the expiration of those respective periods seventeen thousand gallons in every hour;

And in estimating the aforesaid quantities no water running to waste shall be taken into account:

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6. In case of any wilful or negligent act or omission of the Company or their servants, by or in consequence of which the quantity of water which the Company are required to cause to flow or be discharged through the gauges hereinbefore mentioned as compensation water shall not so flow, the Company shall (in addition and without prejudice to all other liability in respect thereof), for and during every day on which such failure, neglect, or default shall occur, forfeit and pay by way of penalties to the occupiers of each and every mill, works, and fall affected thereby the sum of five pounds, and every such occupier may sue for and recover the same without being required to prove actual damage or loss having been sustained by reason of such act or omission:

7. The lodge or dwelling-house for the keeper of the Grizedale reservoir shall not be made by the Company on any land taken or obtained from the owner of the Nether Wyersdale estate.

For the protection of the Barnacre-with-Bonds estates of the Earl of Bective and William Boardman Bashall respectively.

7. The provisions of this Act and of the Fylde Waterworks Act, 1861, as altered by this Act, for and in relation to the ensuring a supply of compensation water down to the Grizedale brook from the gauge basin for the time being at the foot of the Grizedale reservoir, shall be applicable for the protection of the Barnacre-with-Bonds estates of the Earl of Bective and of William Boardman Bashall respectively, in the said parish of Garstang, and the owner for the time being of those estates respectively, as well as for the protection of the Nether Wyersdale estate and the owner thereof.

Execution of works affecting railways, canals, and docks.

8. Where the Company shall in the construction or execution of any works interfere with any railway, or any of the bridges, works, or conveniences thereof, or any canal or dock, or any of the quays, bridges, works, or conveniences thereof, they shall execute and complete the work to the reasonable satisfaction of the respective railway, canal, or dock company, or other persons being the owners or having the management and maintenance of the railway, canal, or dock, and so as to interrupt as little as may be the traffic on or at the railway, canal, or dock.

Power to take additional lands.

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

Power to take easements, &c. by agreement.

10. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act and of the Lands Clauses

Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting 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, rights, and privileges as aforesaid respectively.

Limits of lateral deviation.

11. Whenever and so far as the line of any works shown upon the deposited plans passes along any road, and no limits of lateral deviation are marked thereon, the Company may in the construction of such works deviate laterally from the line thereof, as laid down on such plans, to the extent of the boundaries of such road, and elsewhere the Company may, in constructing the said works, deviate laterally from the lines thereof, as laid down on the said plans, to the extent of the limits of lateral deviation shown thereon.

Limits of vertical deviation.

12. In constructing the said works the Company may deviate vertically from the level thereof, as shown on the deposited sections with reference to the datum line, to any extent not exceeding in the case of the reservoir firstly herein-before described seven feet, and in the case of other works two feet upwards and seven feet downwards, provided that the Company may erect any water tower, standpipe, or other like work of any height which for the time being may be necessary or proper for the purpose of this Act.

Height of embankment.

13. Provided always, that the Company shall not construct the embankment of the said reservoir firstly herein-before described and shown on the deposited plans of a greater height above the surface of the ground than that shown on the deposited sections.

Powers for compulsory purchases limited.

14. 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 five years from the passing of this Act.

Limitation of time for construction of works.

15. On the expiration of seven years from the passing of this Act the powers of this Act granted to the Company for constructing the works hereby authorised shall cease, except as to so much thereof as is then completed; but nothing herein contained shall restrict the Company from extending, enlarging, deepening, increasing the number of, altering, or removing any of their engines, machinery, wells, shafts, mains, or pipes at any time, and from time to time, as the Company may think fit, for improving the supply of water.

Power to take lands and waters for the purposes of this Act.

16. Subject to the provisions of this Act, the Company may enter upon, take, and use for the purposes of this and the recited Acts such of the lands, springs, and waters shown in the deposited plans and specified in the deposited books of reference as may be taken by the works described in section 5 of this Act, and may intercept,

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take, and use the waters of the Grizedale brook, and all other streams and tributaries thereof that may or can be intercepted by the works by that section authorised.

Power to raise additional share capital.

17. In addition to the capital authorised by their existing Acts, the Company may by virtue of this Act raise any additional capital not exceeding in the whole sixty-five thousand pounds by the issue at their option of new ordinary shares or stock, or new preference shares or stock, or wholly or partially by any one or more of those modes respectively; but the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

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

18. 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.

Restriction as to votes in respect of preferential shares or stock.

19. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Profits of the Company limited.

20. 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 seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

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

21. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary stock or shares in the capital of the Company, a rateable deduction shall be made in the dividend of each class.

As to conversion of borrowed money into capital.

22. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or any part thereof, by the creation of shares or stock instead of borrowing, or to convert into capital the amount borrowed under the provisions of this Act,

unless in either case all dividends upon the shares or stock, whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum.

Power to borrow.

23. The Company may, in respect of the additional capital of sixty-five thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole sixteen thousand two hundred and fifty pounds, but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted, and one half of such capital is paid up, and the Company have proved to the justice who is to certify under 40th section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for the whole of such capital 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 the said additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also if the said capital is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Repeal of previous powers to appoint a receiver.

24. The several clauses of the recited Acts whereby the mortgagees of the Company are empowered to appoint a receiver are hereby repealed, but without prejudice to any appointment heretofore made, or any proceedings now pending.

For appointment of a receiver.

25. 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 three thousand five hundred pounds in the whole.

Existing mortgages to have priority.

26. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and

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subsisting at the passing hereof, shall during the continuance of such mortgages have priority over any mortgages granted by virtue of this Act; but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture stock.

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

Priority of mortgages over other debts.

28. 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 claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock; nor shall anything in this section contained affect any claim for land taken, used, or occupied by the Company for the purpose of the Company's undertaking and works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application of moneys.

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

Alteration of time for collection of rates.

30. Notwithstanding anything contained in the 43rd section of the Fylde Waterworks Act, 1861, the Company may, between the twenty-fourth day of June one thousand eight hundred and seventy-four and the first day of September one thousand eight hundred and seventy-four, make and collect a rate or rates, subject to the provisions of that Act, for a proportional part, up to the said first day of September, of the charges payable quarterly for water rates for the quarter ending on the twenty-ninth day of September one thousand eight hundred and seventy-four, and from and after the same first

day of September one thousand eight hundred and seventy-four the said 43rd section of the Fylde Waterworks Act, 1861, shall be and the same is hereby repealed; and the rates for a supply of water for domestic purposes shall from and after that day be payable in advance by equal half-yearly payments on the first day of March and the first day of September in every year, the first of such payments to fall due on the first day of September one thousand eight hundred and seventy-four.

Expenses of Act.

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

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