



CHAPTER xcii.

An Act to empower the Southport Waterworks Company to construct additional Works, to extend their Limits of Supply, to raise additional Capital, to amend and enlarge the provisions of the Southport Waterworks Act, 1854, the Southport Waterworks Act, 1856, the Southport Waterworks Act, 1867, and the Southport Waterworks Act, 1870; and for other purposes. [17th June 1878.]

A.D. 1878.

WHEREAS by the Southport Waterworks Act, 1854, the Southport Waterworks Company (in this Act called "the Company") was incorporated for better supplying with water the town of Southport in the county palatine of Lancaster, and the neighbourhood thereof, with power to construct certain works by that Act authorised, and to raise moneys by the creation of shares and by borrowing, and by the Southport Waterworks Act, 1856, the Southport Waterworks Act, 1867, and the Southport Waterworks Act, 1870, the Company was authorised to raise further sums of money by the creation of shares and by borrowing, and was empowered to construct certain additional works, and the limits of supply of the Company were extended:

7 & 8 Vict.
c. xvi.19 & 20 Vict.
c. viii.
30 & 31 Vict.
c. cx.
33 & 34 Vict.
c. xxiii.

And whereas the Company have acquired from Colonel Thomas Richard Plumbe Tempest and Leonard Kennedy, the owners or reputed owners of lands in the parish of Aughton in the county palatine of Lancaster, under two several deeds bearing date respectively the fifth day of November one thousand eight hundred and seventy-seven and the fourth day of October one thousand eight hundred and seventy-six, certain lands and hereditaments in that parish, and, with the consent of the said owners and the lessees and occupiers of such lands, have made or are making certain works thereon in the lines and according to the levels delineated upon the plans and sections and described in the book of reference deposited with the clerk of the peace for the county palatine of Lancaster for

A.D. 1878.

the purposes of this Act, and it is expedient that the Company should be authorised to hold such lands and hereditaments, and that the construction of the works made and making upon such lands and hereditaments should be sanctioned and confirmed by this Act :

And whereas the share capital authorised by the recited Acts amounts in the whole to the sum of one hundred and fifty thousand pounds, and the Company are by such Acts authorised to borrow sums not exceeding thirty-seven thousand five hundred pounds :

And whereas the whole of the share capital authorised by the recited Acts has been issued, and the Company have exercised their powers of borrowing to the full amount which they are authorised to borrow under and by virtue of their said Acts :

And whereas the population and the demand for water both within and beyond the limits of the recited Acts have much increased and are still increasing, and it is expedient to enable the Company to make additional works, to extend 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 by compulsion or agreement, and to raise further sums of money for the better and more effectually carrying out the objects and purposes of their 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 whereas plans and sections showing the lines, situations, and levels of the intended reservoir and other works authorised by this Act, and also a book of reference 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 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 respectively referred to as the deposited plans, sections, and book 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 be cited as the *Southport Waterworks Act, 1878*, and this Act and the recited Acts may be cited together as the *Southport Waterworks Acts, 1854 to 1878*.

2. The provisions of the recited Acts, so far as they are not expressly repealed and are not varied by or inconsistent with the provisions of this Act, shall be incorporated with this Act, and this Act and the recited Acts shall (save as aforesaid) be read and construed together as one Act. A.D. 1878.
Construction
of Act.

3. The following Acts and parts of Acts (as far as they are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act; namely, Incorporation of general Acts.
8 & 9 Vict.
c. 16.

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 the shares into stock;
- The general meetings of the Company, and the exercise of the right of voting by the shareholders;
- The making of dividends;
- The giving of notices; and
- The provision to be made for affording access to the special Act;

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;

- The Companies Clauses Act, 1869; 26 & 27 Vict.
c. 118.
- The Lands Clauses Consolidation Acts, 1845, 1860, and 1869; 32 & 33 Vict.
c. 48.
- The Waterworks Clauses Acts, 1847 and 1863; and 8 & 9 Vict.
c. 18.
- The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof, and with respect to the crossing of roads or other interference therewith: 23 & 24 Vict.
c. 106.
32 & 33 Vict.
c. 18.

Provided that in construing the provisions of the latter Act for the purposes of this Act, the expression "the railway" and "the centre of the railway" shall respectively mean the works and the boundaries of the works by this Act authorised, and that such provisions shall apply only to the service reservoir hereby authorised and the works immediately connected therewith, and to so much of 10 & 11 Vict.
c. 17.
26 & 27 Vict.
c. 93.
8 & 9 Vict.
c. 20.

A.D. 1878. — the aqueduct or main pipe (No. 2) fourthly herein-after described as lies between the village of Halsall and the termination of such aqueduct or main pipe.

Interpreta-
tion of terms.

4. 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 "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Power to
construct
works ac-
cording to
deposited
plans.

5. Subject to the provisions of this Act and the recited Acts, the Company may make, construct, and maintain, in the lines or situations and according to the levels shown on the deposited plans and sections, the works shown thereon, with all proper works and conveniences connected therewith, among which are comprised the following; namely,

1. A pumping station (herein-after called the "Springfield Pumping Station"), with a well or wells, drifts, standages, and other works connected therewith, to be situated in the township and parish of Aughton, near to Cockbeck Bridge:
2. An aqueduct or main pipe (No. 1), wholly situate in the said township and parish of Aughton, commencing at or in the Springfield Pumping Station aforesaid, and terminating in the existing service reservoir of the Company at Gorse Hill:
3. A service reservoir, wholly situate in the township and parish of Aughton aforesaid, on land adjoining the said existing service reservoir of the Company at Gorse Hill:
4. An aqueduct or main pipe (No. 2), commencing at or in the said existing service reservoir of the Company at Gorse Hill, and terminating in the township of Birkdale in the parish of North Meols, at the junction of Halsall New Road with the Liverpool Road:
5. An aqueduct or main pipe (No. 3), commencing in the said township of Birkdale in the parish of North Meols, by a junction with the aqueduct or main pipe No. 2 herein-before described at the termination thereof, and terminating in the township of North Meols in the parish of North Meols, at the junction of Lord Street, Lord Street West, and Duke Street, in Southport:
6. An aqueduct or main pipe (No. 4), commencing in the said

township of Birkdale in the parish of North Meols, by a junction with the aqueduct or main pipe No. 2 herein-before described at the termination thereof, and terminating in the township of Formby in the parish of Walton-on-the-Hill, near the Ainsdale Station of the Lancashire and Yorkshire Railway.

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All which said works, lands, and property are situate in the county of Lancaster.

And also all such embankments, roads, engines, engine-houses, buildings, pumps, machinery, mains, aqueducts, conduits, weirs, pipes, channels, wells, drifts, standages, service tanks, cocks, valves, sluices, drains, and other works and conveniences as may be required or deemed expedient in connexion with the construction of the said works, or any part thereof, and may also enter upon, take, and use such of the lands described in the deposited plans and book of reference as they may require for the purposes of this Act.

6. In constructing and maintaining the works by this Act authorised affecting the Lancashire and Yorkshire Railway, or any works or lands of the Lancashire and Yorkshire Railway Company connected therewith, the Company shall be subject to the following conditions; namely,

For protection of Lancashire and Yorkshire Railway Company.

1. All works crossing or affecting the said railway or the said works and lands, or any part thereof, shall be executed at the expense of the Company under the superintendence and to the satisfaction of the engineer for the time being of the Lancashire and Yorkshire Railway Company, according to plans, sections, and specifications previously submitted to him:
2. If the engineers of the Company and of the Lancashire and Yorkshire Railway Company differ concerning the said plans, sections, and specifications, or concerning the execution of the said works, every such difference shall be settled by an engineer to be appointed by the said two engineers, or (if they cannot agree on such appointment) then by an engineer to be appointed by the Board of Trade on the application of either party:
3. The said works shall be constructed and maintained so that the traffic upon the said railway shall not be in anywise impeded or interfered with:
4. The Company shall acquire only an easement in and upon such of the works, lands, and property of the Lancashire and Yorkshire Railway Company as may be necessary for con-

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structing and maintaining the aqueducts or lines of pipes by this Act authorised to be laid :

5. If by reason of the construction or maintenance of the works by this Act authorised the railway of the Lancashire and Yorkshire Railway Company, or any of the works or lands connected therewith, shall be damaged or injured, or the traffic thereon impeded, the Company shall make full compensation for any loss or expense occasioned thereby :
6. The amount to be paid for the acquisition of an easement under the said railway, works, and lands as herein-before provided, including the compensation (if any) for damage or injury to the said railway, works, and lands respectively, or impediment to the traffic thereon, shall from time to time be settled in case of difference in the manner provided by the Lands Clauses Consolidation Act, 1845, with respect to the purchase of lands otherwise than by agreement.

8 & 9 Vict.
c. 18.Power to
take addi-
tional lands
by agree-
ment.

7. 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, but the Company shall not erect any buildings upon such lands other than offices, residences for persons in their employ, or such buildings and works as may be incident to or connected with their undertaking.

Limits of
lateral devia-
tion.

8. 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.

9. 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 in the case of the service reservoir not exceeding three feet upwards and five feet downwards, and in the case of other works not exceeding five feet upwards or downwards, provided that the Company may erect any water tower, stand pipe, or other like work of any height which for the time being may be necessary or proper for the purposes of this Act.

Power to
take case-
ments, &c.
8 & 9 Vict.
c. 18.

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.

A.D. 1878.
23 & 24 Vict.
c. 106.

11. 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 of this Act.

Period for compulsory purchase of lands.

12. On the expiration of seven years from the passing of this Act the powers by 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, drifts, adits, standages, mains, or pipes, at any time and from time to time as the Company may think fit, for the purposes of their undertaking.

Limitation of time for construction of works.

13. The Company may hold the lands and hereditaments granted and conveyed to them by the deeds respectively bearing date the fifth day of November one thousand eight hundred and seventy-seven and the fourth day of October one thousand eight hundred and seventy-six, and the construction of the works made and making upon such lands and hereditaments is hereby sanctioned and confirmed.

Power to hold certain lands.

14. The limits within which the Company may supply water shall extend to and include, in addition to the parishes, townships, and places within the limits of the recited Acts, the townships of Maghull, Lydiate, and Down Holland, in the parish of Halsall, and the township of Formby in the parish of Walton-on-the-Hill, all in the county palatine of Lancaster, and the recited Acts shall, subject to the provisions of this Act, be in force within the said townships in the same manner as within the existing limits of the Company.

Extension of limits for supply of water.

15. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, raise any additional capital, not exceeding in the whole one hundred and fifty 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

Power to raise additional share capital.
26 & 27 Vict.
c. 118.

A.D. 1878. — 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 same incidents as other shares or stock.

16. Except as by this Act otherwise provided, the capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

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

As to votes for preferential shares or stock.

18. 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 Company limited.

19. 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.

Calls.

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

Receipt in case of persons not sui juris.

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

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 such shares or stock,

whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum. A.D. 1878.

23. The Company may, in respect of the additional capital of one hundred and fifty 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 thirty-seven thousand five hundred pounds, at the times and subject to the restrictions herein-after mentioned, that is to say, when fifty thousand pounds of the said additional capital by this Act authorised has been from time to time issued and accepted and one half thereof has been paid up, the Company may borrow on mortgage any sum or sums not exceeding twelve thousand five hundred pounds, and when and as each further sum of fifty thousand pounds of the said additional capital has been issued and accepted and one half the amount thereof respectively has been paid up, the Company may borrow on mortgage any further sum or sums of money not exceeding twelve thousand five hundred pounds in respect of each such fifty thousand pounds, but in none of the before-mentioned cases shall any part of the said respective sums be borrowed until the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that shares for so much of each portion of additional capital as is to be raised by means of shares have been issued and accepted, and one half thereof has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of each such portion of additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up *bonâ fide*, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, so far as the said additional 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.

Power to borrow on mortgage.

8 & 9 Vict. c. 16.

24. The several clauses of the recited Acts whereby the mortgages 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.

Repeal of power of appointing receiver.

A.D. 1878.

As to ap-
pointment 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 nine thousand 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 subsisting at 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 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.
26 & 27 Vict.
c. 118.

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 rent-charge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company, in pursuance of any Act relating to the Company, which is entitled to rank in priority to or *pari passu* with the interest on their 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.

8 & 9 Vict.
c. 18.
23 & 24 Vict.
c. 106.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.

30. Subject to the provisions of this Act, the Company may demand and take for the water supplied by them within the limits of this Act the same rates and charges as they are authorised to take by the recited Acts or either of them. A.D. 1878.
Power to
levy rates.

31. The Company shall not be compelled to supply water to the occupier of any part of a dwelling-house, or for any premises occupied with a dwelling-house, unless the water rent or rate is paid for the whole of such dwelling-house and premises. Where part
only of
premises sup-
plied, the
whole to pay.

32. Nothing herein contained shall tend to lessen or control any right, power, or authority now vested in the justices of the peace for the county palatine of Lancaster for altering or rebuilding any bridge, and the lengths of roadway adjacent thereto repairable by the inhabitants of the said county, or any hundred therein, which may be crossed or affected by the works of the Company, but all such rights, powers, and authorities shall remain in as full force as if this Act had not passed, and the said justices shall not be liable to make any compensation whatever for any damage or injury to the Company by the altering or rebuilding of any such bridge and lengths of roadway adjacent thereto; provided that in altering or rebuilding such bridge or lengths of roadway adjacent thereto, nothing shall be done to impede or interfere with the works of the Company for any greater length of time or in any other manner than shall be necessary for the execution of the works, and before commencing such alteration or rebuilding ten days notice thereof shall be given to the Company, and the said justices shall afford to the Company all necessary and reasonable temporary facilities for enabling them to continue the supply of water during such alteration or rebuilding. If any bridge repairable by the inhabitants of the said county, or of any hundred therein, upon or along which any pipe of the Company is laid be altered or rebuilt by the justices of the said county, the said justices may require the Company to alter any such pipes in such manner as the circumstances of the case may reasonably require; provided that in case of any difference between the said justices and the Company as to such alteration, the same shall be referred to an arbitrator to be agreed upon between the parties, or to be appointed for that purpose by the Board of Trade on the application of either party. Saving rights
of justices of
the peace
for the county
palatine of
Lancaster.

33. All the 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. Expenses of
Act.

