



CHAP. iv.

An Act to enable the Spalding Waterworks Company to extend their works ; and for other purposes with relation to the same company. A.D. 1869.
—
[24th June 1869.]

WHEREAS by an Act passed in the year 1860 the Spalding Waterworks Company were incorporated “for the better supply of Spalding with water,” and were authorized to raise a capital of 8,000*l.*, in shares of 10*l.* each, and to borrow 2,000*l.*; and they have raised 7,530*l.*, part of the said capital, and have constructed the works authorized by the said Act, but they have not borrowed on mortgage of their undertaking any part of the said sum of 2,000*l.* : 23 & 24 Vict.
c. xxx.

And whereas the water from which the company derive their supply is at times brackish, owing to the infiltration of sea water, and is thus rendered unfit for domestic purposes, and it is expedient that the company should be authorized to derive their supply from another source, and they are willing to do so subject to the conditions and restrictions herein-after contained, and to raise further sums of money for that purpose :

And whereas plans and sections showing the situation, lines, and levels of the aqueducts and works by this Act authorized, and the lands required for the purposes thereof, and books of reference to the plans, have been deposited with the respective clerks of the peace for the parts of Kesteven and of Holland, in Lincolnshire :

And whereas the objects aforesaid 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 ; (that is to say,)

1. This Act may be cited for all purposes as “The Spalding Waterworks Act, 1869.” Short title.

8 & 9 Vict. c. 18.,
10 & 11 Vict.
c. 17.,
23 & 24 Vict.
c. 106., and
26 & 27 Vict.
c. 93. incor-
porated.

Certain pro-
visions of
8 & 9 Vict.
c. 16. and
26 & 27 Vict.
c. 118. in-
corporated.

2. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and "The Waterworks Clauses Acts, 1847" and "1863," are incorporated with this Act.

3. The clauses and provisions of "The Companies Clauses Consolidation Act, 1845,"

With respect to the distribution of the capital of the company into shares ;

With respect to the transfer or transmission of shares ;

With respect to the payment of subscriptions and the means of enforcing the payment of calls ;

With respect to the forfeiture of shares for nonpayment of calls ;

With respect to the remedies of creditors of the company against the shareholders ;

With respect to the borrowing of money by the company on mortgage or bond ;

With respect to the conversion of the borrowed money into capital ;

With respect to the consolidation of the shares into stock ; and

With respect to the provisions to be made for affording access to the special Act by all parties interested ;

And Part I. and Part II. of "The Companies Clauses Act, 1863," relating respectively to "cancellation and surrender of shares" and to "additional capital," shall, so far as the same are not inconsistent with, or varied, or otherwise provided for by the provisions of this Act, be incorporated with and form part of this Act, and apply to the company and the shareholders thereof, and to the capital authorized by this Act.

Interpreta-
tion of terms.

4. In construing the said Acts for the purposes of this Act, and in construing this Act, the expression "superior courts" or "court of competent jurisdiction," or any other like expression, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt, and not a debt or demand created by statute.

Same mean-
ings to words
in this Act
as in incor-
porated Acts.

5. The several words and expressions to which by the Acts incorporated with this Act meanings are assigned shall have in this Act the same respective meanings, unless excluded by the subject or context.

Power to
make new
waterworks
according to
deposited
plans.

6. It shall be lawful for the Company, subject to the provisions in this Act contained and to the powers of deviation hereby given, to make and maintain the aqueducts and other works herein-after described, in the line and situation and on the levels and upon the lands delineated on the said plans and described in the said books of

reference, and defined on the said sections, and to enter upon, take, purchase, and use such of the lands, streams, and waters mentioned in the said plans and books of reference as may be required for that purpose. A.D. 1869.

7. The works which the company are hereby authorized to execute are : Describing works.

(a.) A well or shaft in the parish of Bourn, in the parts of Kesteven, in Lincolnshire, in a field belonging or reputed to belong to the trustees of Francis James Bellingham, esquire, and in the occupation of Edward Briggs, bounded on the east by the Carr Dyke and on the north by the road leading from the Spalding and Bourn Road to North Gate Bourn :

(b.) A main conduit or aqueduct from the said well, passing along the first-mentioned road, and then along the said Spalding and Bourn Road to Fengate, in the parish of Pinchbeck, in the parts of Holland, in Lincolnshire, and thence along the road from Fengate to Millgreen Way, in the parish of Pinchbeck, and thence to the termination of the said main conduit at the present suction pipe of the company, in or near to the culvert conveying the water of Blue Gowt Pup under Vernatt's Drain in the parishes of Pinchbeck aforesaid and Spalding in Lincolnshire, or one of them ;

together with all necessary works, engines, sluices, and other conveniences connected with the said shaft and conduit respectively.

8. In constructing the said works, or any of them, the company may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans, and may also deviate from the levels shown on the said sections to any extent not exceeding five feet, but no such power of vertical deviation shall authorize the company to alter the level of any turnpike or other public carriage road. Power to deviate.

9. The details and mode of constructing all tunnels, culverts, conduits, aqueducts, bridges, embankments, and other such works of the company affecting the Bourn, North Fen, and Dyke Fen Drainage Trust, or the Black Sluice, the Deeping Fen, and the Spalding and Pinchbeck Drainage Trusts respectively, or passing along, through, over, or under, or touching upon any of the drains, cuts, banks, or works under the jurisdiction of the trustees of the said drainages respectively, or which they or any of them are liable to repair or maintain, together with all necessary and contingent works, whether temporary or permanent, in connexion therewith, and as well those which are as those which are not specifically mentioned in this Act, but which are necessarily consequent upon or Construction of works with reference to certain drainage trusts.

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fairly implied by the several stipulations and conditions herein provided for, shall be executed in a proper and efficient manner, to the reasonable satisfaction of an engineer to be appointed by the trustees (if they think fit) whose works of drainage may be affected, and in case of difference between the company and the said drainage trustees respectively, as to the works so to be executed to the satisfaction of such engineer, every such difference shall be settled by arbitration in the manner provided by "The Lands Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration, and all the charges and expenses of any engineer appointed by such drainage trustees for the above purpose shall be paid by the company.

Company to make good injury occasioned by their works.

10. If at any time during the construction of the waterworks, or after the same shall have been completed, any injury or damage shall be occasioned or arise to the banks, drains, or works within the said drainage trusts, or under the jurisdiction of the said drainage trustees, or which they are liable to repair or maintain, or any of them, as to the navigation of the said drains or any of them, from or in consequence of the formation of any bridges, embankments, ditches, conduits, aqueducts, culverts, pipes, or other works of the company which may not have been foreseen or otherwise provided for by this Act, the company shall make good and repair such injury or damage immediately after the discovery thereof, and also make full compensation to any person or public body aggrieved for such injury or damage, and shall also execute such works for the prevention of any future injury as shall be deemed necessary, and in case of difference as to the compensation to be made, or the works to be executed, or the period or manner in which the same shall be executed, such difference shall be settled by arbitration in the manner provided by "The Lands Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration.

Company responsible for damage occasioned by their works.

11. The company shall at all times be responsible to any owner or occupier of lands interested in or connected with the drainage affected by the drains within the said drainage trusts for any damage or injury that may be done to any of the lands within the said drainage trusts, or within the jurisdiction and control of the said drainage trustees, in case of breach of any bank under the jurisdiction of the said trustees, or which they are liable to maintain, or the overflowing of the waters of the said drains respectively, or any of the drains, skirths, or watercourses connected therewith, or the flooding of the said lands or any of them arising from or caused by the works of the company, or by any neglect of the company of necessary repairs, and the company shall make full compensation to such owners or occupiers for such damage or injury, such damage

and compensation to be recovered by all or any of the ways or means by which any damage or compensation is made recoverable by this Act or the Acts incorporated therewith, or any or either of them. A.D. 1869.

12. Nothing in this Act mentioned shall take away, lessen, impede, or control any rights, powers, privileges, or authorities now vested in or enjoyed by the said drainage trustees respectively in reference to the several drains, banks, and other works under their jurisdiction, or which they are liable to repair or maintain, with respect to the widening, deepening, or improving, or the repair or maintenance of the said banks, drains, or works, or otherwise in reference thereto. Saving rights of drainage trustees.

13. The company shall not construct the said well or shaft in the parish of Bourn nearer than sixty yards from the centre line of the Bourn and Sleaford Railway, as shown on the plans of the said railway deposited with respect to "The Great Northern Railway (Sleaford to Bourn) Act, 1865," and nothing contained in this Act shall authorize the company to enter upon, take, or use, or otherwise to interfere with the land or works of the Great Northern Railway Company in the parish of Spalding, without the previous consent in writing of the said company. For protection of Great Northern Railway.
28 & 29 Vict. c. clxxxii.

14. The company may from time to time by agreement purchase and hold, for the purposes of this or of their existing Act, any quantity of land not exceeding two acres, in addition to the lands which by the Act of 1860 they are authorized to purchase, and to the lands which by this Act they are authorized to take by compulsion. Lands for extraordinary purposes.

15. The persons by "The Lands Clauses Consolidation Act, 1845," authorized to convey lands may, by agreement, and subject to the provisions of that Act, and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," grant to the company, for the purposes of this or of their existing Act, any lands, or the right of user thereof, or any easement, liberty, privilege, power, or authority in or over the same in perpetuity, in consideration of a sum in gross or of an annual rent. Persons authorized to convey lands may grant easements.

16. For the purposes of this Act the several provisions of "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," with respect to lands and rentcharges, so far as the same respectively are applicable in that behalf, shall extend and apply to easements and rentcharges reserved by grants and leases of easements respectively. Application of Lands Clauses Consolidation Acts to easements.

17. The powers by this Act granted to 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. Powers for compulsory purchases limited.

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Period for
completion
of works.

18. If the works hereby authorized shall not be completed within five years from the passing of this Act, then and in such case, on the expiration of the said period, all the powers hereby granted to the company to make the same shall cease to be exercised, except as to so much of the said works as shall then be completed: Provided always, that nothing in this Act contained shall extend or be construed to extend to restrain the company from extending their mains and pipes from time to time whenever it shall be necessary for the purpose of supplying with water the inhabitants and other persons requiring the same, within the limits of the recited Act of 1860 or of this Act.

For protec-
tion of Bourn
Waterworks.

19. Whereas the inhabitants of the town and parish of Bourn are at present mainly supplied with water from the artesian wells of the Bourn Waterworks Company (Limited), and it is apprehended that the exercise of the powers of this Act may diminish such supply; be it therefore enacted as follows:

- (a.) The company may use the water rising from the well or shaft herein-before authorized to be constructed, so long, and only so long, as the flow of water from the bore hole of the Bourn Waterworks Company is at the rate of six thousand gallons for every hour of the twenty-four hours:
- (b.) The said flow of water shall be measured by a meter affixed, at the expense of the company, to a branch on the main pipe of the Bourn Waterworks Company, or by such other means as may be agreed on between the two companies, or, in default of agreement by them, as may be prescribed by an engineer to be chosen by common accord, or to be nominated upon the application of either company by the chief engineer for the time being of the Great Northern Railway Company, and the said meter shall be applied before the company take any water from the proposed shaft:
- (c.) If any question arises between the two companies as to the quantity of the said flow of water, or as to the adequacy or condition of the meter, or otherwise concerning the relative rights of the two companies under this enactment, every such question shall from time to time be referred to an engineer to be chosen or nominated as aforesaid, who shall have power to determine what shall be done by either company with respect to the matter referred to him, and at whose expense, and the costs of and attending the reference shall be paid as the said referee shall direct: Provided, that the referee shall not in any case interfere with the right of the Bourn Waterworks Company to the quantity of water herein-before reserved to them:

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(d.) If the company shall appropriate or use any water arising from the said well or shaft whilst the said flow of water is less than at the rate of six thousand gallons for every hour during the twenty-four hours, the company shall forfeit to the Bourn Waterworks Company for every day during which they shall so appropriate water the sum of twenty-five pounds :

(e.) The company shall not take or appropriate more water from the said well or shaft than is necessary for the purposes of the Spalding Waterworks Act, 1860 ; and if the company do apply the water to any other purposes, or wilfully or negligently permit it to run to waste, they shall for every such offence forfeit the sum of twenty pounds, and shall forfeit ten pounds for every day during which such offence shall continue after notice thereof served by the Bourn Waterworks Company upon the company.

20. In addition to the sums of money which the company are authorized to raise by the Act of 1860, the company may from time to time raise, by the creation of new shares or stock, any sums not exceeding five thousand pounds, and the company may create and issue such shares or stock either as ordinary shares or stock, or new preference shares, or as new preference stock, as the company may from time to time think fit.

Power to raise additional capital by new shares.

21. The company shall not issue any share or stock created under the authority of this Act, nor shall any share or stock vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share or stock shall have been paid up in respect thereof.

Shares not to issue until one fifth paid up.

22. One fifth part 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 four fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Calls.

23. The company may from time to time raise by borrowing on mortgage such sum or sums of money as may by an order of any meeting of the shareholders be authorized to be so borrowed, not exceeding in the whole the sum of one thousand six hundred pounds, in addition to the sums which they are already authorized to borrow by the said Act of 1860 ; but no part of the said sum of one thousand six hundred pounds shall be borrowed until the whole capital of five thousand pounds is subscribed for, issued, and accepted, and one half thereof is paid up, and the company have proved to the justice who is to certify under the 40th section of "The Com-

Power to borrow on mortgage.

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Arrears may be enforced by appointment of a receiver.

24. 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 authorize the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

Application of monies.

25. All monies raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act and for the general purposes of the company.

Disused pipes may be removed.

26. In case any pipe laid in any street or land has or may become unnecessary and disused for the conveyance of the water of the company, the company shall have the same powers of entering upon and breaking up such street or land for removing such pipes as they could have exercised for placing such pipe under such street or land, and shall be liable to reinstate and make good the street or land in the manner provided by the 32nd section of "The Waterworks Clauses Act, 1847."

Expenses of Act.

27. All the costs, charges, and expenses incurred in applying for and obtaining this Act, and incidental thereto, shall be defrayed by the company.