



CHAPTER xxi.

An Act to authorise the construction of Waterworks for the supply of water to the Lunatic Asylum for the County Palatine of Lancaster, situate at Whittingham, in the said county; and to enable the Justices of the Peace for the said county to provide necessary courts, offices, and lock-ups for the holding of General or Quarter Sessions of the Peace within the hundred of West Derby in the said county. A.D. 1880.
[29th June 1880.]

WHEREAS the lunatic asylum for the county palatine of Lancaster, situate at Whittingham, in the county of Lancaster, is now insufficiently supplied with water:

And whereas it is expedient that the Committee of Visitors of the said asylum should be authorised to construct the waterworks hereinafter described to enable them to afford a good and sufficient supply of water to the said asylum:

And whereas plans and sections of the waterworks by this Act authorised, showing the situation, line, and levels thereof respectively, and describing the brooks and streams to be taken for the purposes thereof, and also a book of reference thereto containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of the lands in, upon, or through which the same respectively are intended to be made or pass, have been deposited with the clerk of the peace of the county palatine of Lancaster:

And whereas under the provisions of an Act passed in the thirty-
eighth year of the reign of King George the Third, intituled “An
“ Act for obviating and removing doubts respecting the holding of
“ the adjournments of the General Court of Quarter Sessions of the
“ Peace in and for the County Palatine of Lancaster, and for autho-
“ rising the Justices of the Peace acting in and for the said county
“ to hold an annual general session and also a special session for

38 Geo.
c. lviii.

A.D. 1880. — “ the purposes therein mentioned,” the business of the county of Lancaster concerning the general county rates is transacted at the annual general sessions of the peace holden at Preston, and at the adjournments thereof, and at special sessions holden at Preston according to the said Act, but the general quarter sessions of the said county are held by adjournments from place to place for the transaction of business arising within the several hundreds of the said county, and amongst other places are so held in the hundred of West Derby for the transaction of business arising within the said hundred :

And whereas the said court of general quarter sessions in the hundred of West Derby has heretofore been holden at the court house adjoining and situate within the curtilage of and forming part of the boundary wall of Her Majesty's prison at Kirkdale in the said hundred and county :

40 & 41 Vict.
c. 21.

And whereas under the provisions of an Act made and passed in the forty and forty-first year of the reign of Her present Majesty, intituled “ An Act to amend the law relating to Prisons in England,” the prisons to which that Act applied (of which the said prison at Kirkdale was one) were on and after the commencement of the said Act transferred to and vested in one of Her Majesty's Principal Secretaries of State, but it was by the said Act provided that court houses or other rooms situate within the curtilage of a prison or forming part of a prison, and which court houses or other rooms were used for the holding of assizes or petty sessions, or for purposes other than those connected with the management of a prison, should not be transferred to or vested in the Secretary of State under the said Act, but it should be lawful for the Secretary of State, with the consent of the Treasury, to purchase such court houses or other rooms so situate as aforesaid from the local authority to whom the same belonged :

And whereas negotiations are now pending between the said Secretary of State and the Justices for the purchase by the said Secretary of State of the said court house at Kirkdale aforesaid :

And whereas it is expedient to confer upon the said Justices power to purchase land by agreement, and to erect thereupon commodious courts, offices, lock-ups, and other accommodation necessary and convenient for carrying on the business usually transacted at courts of general or general quarter sessions of the peace within the said hundred of West Derby in the said county :

And whereas the objects aforesaid cannot be carried into effect 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,

[43 & 44 VICT.] *Lancashire County Justices Act*, 1880. [Ch. xxi.]

and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,) A.D. 1880.

1. This Act may be cited for all purposes as the *Lancashire County Justices Act*, 1880. Short title.

2. This Act is divided into two parts, as follows:

Part I., relating to waterworks:

Part II., relating to courts for general or quarter sessions.

Division of
Act.

Preliminary.

3. In this Act and in the Acts incorporated herewith the following words and expressions have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

Interpreta-
tion of terms.

The expression "the asylum" means the lunatic asylum for the county of Lancaster, situate at Whittingham, in the said county;

The expression "the Justices" means the justices of the peace for the county palatine of Lancaster;

The expression "the clerk of the peace" means the clerk of the peace for the time being of the county palatine of Lancaster;

The expression "the Undertakers" means the Committee of Visitors for the time being of the asylum;

The expression "the corporation" means the mayor, aldermen, and citizens of the city of Manchester, in the county of Lancaster;

The expression "the Lunacy Acts" means the Lunatic Asylums Act, 1853, the Lunatic Asylums Act, 1855, and the Lunacy Acts Amendment Act, 1862;

16 & 17 Vict.
c. 97.

18 & 19 Vict.
c. 105.

The word "highways" includes turnpike and other public roads, highways, lanes, streets, and passages within the parish and other places named on the deposited plans as the parish or place within which the proposed works are situate;

25 & 26 Vict.
c. 111.

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 common simple contract debt, and not a debt or demand created by statute.

4. The several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Act have in this Act the same meanings respectively as those assigned to them by such incorporated Acts, unless other meanings are assigned to them by this Act.

Same
meanings to
words in
incorporated
Acts and
this Act.

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Incorporation
of Acts.

8 & 9 Vict.

c. 18.

23 & 24 Vict.

c. 106.

32 & 33 Vict.

c. 18.

10 & 11 Vict.

c. 17.

5. The following Acts and portions of Acts, where the same are not inconsistent with or repugnant to this Act, are incorporated with this Act; (that is to say,)

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869; and for the purposes of such incorporation the expression "the promoters of the undertaking" in those Acts means "the Undertakers" as defined by this Act:

The provisions of the Waterworks Clauses Act, 1847,—

With respect to the construction of that Act and of any Act incorporated therewith;

With respect to the construction of the waterworks;

With respect to the construction of works for the accommodation of lands adjoining the waterworks;

With respect to the breaking up of streets for the purpose of laying pipes; and

With respect to the provision for guarding against fouling the water of the Undertakers:

26 & 27 Vict.
c. 93.

The following clauses of the Waterworks Clauses Act, 1863; namely,

Section 2, relating to the interpretation of terms; and

Sections 3 to 11, both inclusive, with respect to the security of the reservoirs constructed by the Undertakers.

PART I.

WATERWORKS.

Certain
powers of
16 & 17 Vict.
c. 97.
and other
Acts ex-
tended to
this Act.

6. In addition to the powers contained in the incorporated Acts, and made applicable to this Act, all the powers and authorities by virtue of the Lunacy Acts vested in the Committee of Visitors of the Whittingham County Lunatic Asylum or in the Justices in annual general sessions assembled, or in either of those bodies, for the purposes of providing a pauper lunatic asylum for the said county, or of enlarging, altering, or improving such asylum, or the offices, outbuildings, yards, courts, outlets, grounds, land, and appurtenances belonging thereto, or for levying rates and borrowing money on the security thereof for the purposes of the said asylum, may, in any case not expressly provided for by this Act, and subject to the provisions and restrictions of the Lunacy Acts and of this Act, be put in force and exercised by the Undertakers or by the Justices for effecting all or any of the objects and purposes of this Act in the same manner as if such objects and purposes had been comprised in and authorised by the Lunacy Acts.

Limits of
Act.

7. The limits within which the Undertakers may supply water shall comprise and include the asylum and any extension thereof, and all the houses, offices, outbuildings, yards, courts, outlets, grounds, land, and appurtenances for the time being belonging to

the Undertakers; and the Undertakers shall, on the completion of the works by this part of this Act authorised, also supply water to the Horns Inn, and to the following farms, namely, Bonds, the Slater House, Stump Cross, Freed Fort, and Lower House, in the township of Goosnargh-with-Newsham, but the Undertakers shall not be entitled to receive any rate, rent, or payment in respect of any supply so afforded by them.

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8. Subject to the provisions of this Act, and to the approval of the Commissioners in Lunacy and one of Her Majesty's Principal Secretaries of State, the Undertakers may make, construct, and maintain the reservoir and works herein-after described, and may enter upon, take, and use all or any of the lands delineated on the deposited plans and described in the deposited book of reference which may be required for that purpose. The reservoir and works herein-before referred to and authorised by this Act are :

Power to
make works.

1. A reservoir in the township of Goosnargh-with-Newsham, situate in two pasture fields, being part of the Hill House Farm, belonging or reputed to belong to the Reverend Edmund Dawson Banister, Clerk, as Vicar of Whitechapel, and in the occupation of John Salisbury :
2. A conduit, aqueduct, or line of pipes commencing from the spring in the quarry known as the Mountain Delph, in the said township of Goosnargh-with-Newsham, belonging or reputed to belong to Andrew and Thomas Smith, and in the occupation of James Smith, and terminating in the centre of the northerly side of the reservoir herein-before described :
3. A conduit, aqueduct, or line of pipes commencing at a point on the stream in a pasture field called Pitmouth Field, in the said township of Goosnargh-with-Newsham, belonging or reputed to belong to and in the occupation of Richard Alston, fifty yards or thereabouts from the north-westerly corner of the said Pitmouth Field, measured in a straight line and in a southerly direction, and terminating at the north-west corner of the aforesaid reservoir :
4. A conduit, aqueduct, or line of pipes commencing at a point on a stream in a pasture field called Two Acre Field, in the said township of Goosnargh-with-Newsham, belonging or reputed to belong to the said Vicar of Whitechapel, and in the occupation of John Salisbury, seventy yards or thereabouts from the north-east corner of the said Two Acre Field, measured along the boundary fence in a southerly direction, and terminating at the north-east corner of the aforesaid reservoir :
5. A conduit, aqueduct, or line of pipes commencing in the said township of Goosnargh-with-Newsham, out of the south-east

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corner of the aforesaid reservoir, and terminating in the township of Whittingham in the centre of the gateway at the north entrance to the asylum.

Powers to deviate within limits of deviation.

9. In the construction of any of the works hereby authorised, the Undertakers may deviate laterally to any extent within the limits of deviation shown on the deposited plans, and may deviate vertically from the levels of such works as shown on the deposited sections to any extent not exceeding three feet in the case of a reservoir and not exceeding five feet in any other case: Provided always, that the Undertakers shall not, in exercise of the powers of lateral deviation hereby given, construct any embankment or wall of the reservoir of a greater height above the general surface of the ground than the corresponding embankment or wall shown on the deposited sections and three feet in addition.

Undertakers may acquire easements only in certain lands.

10. The Undertakers may, in lieu of acquiring any lands for the purposes of the waterworks authorised by this Act, acquire such easements and rights in such lands as they may require for the purpose of constructing, placing, laying, inspecting, maintaining, cleansing, repairing, conducting, or managing the waterworks by this Act authorised, and may give notice to treat in respect of such easements and rights, and may in such notice describe the nature thereof, and the several provisions of the Lands Clauses Consolidation Act, 1845, inclusive of those with regard to arbitration and the summoning of a jury, shall apply to such easements and rights as fully as if the same were lands within the meaning of such Act: Provided always, that nothing herein contained shall authorise the Undertakers to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require them to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only, and every notice to treat for the acquisition of an easement shall be indorsed with notice of this proviso.

Power to take water from certain springs.

11. The Undertakers for the purposes of this Act may divert into the reservoir and works hereby authorised, and impound, take, use, and appropriate, the waters of the spring in the quarry known as the Mountain Delph, in the township of Goosnargh-with-Newsham, in the parish of Kirkham, and the other springs and streams situate respectively in the Pitmouth Field and the Two Acre Field in the said township and parish, and with such water may supply the waterworks of the Undertakers and the said asylum.

Period for compulsory purchase of lands.

12. The powers of the Undertakers 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.

13. The reservoir, conduits, aqueducts, and pipes authorised by this Act shall be completed within five years from the passing of this Act, and on the expiration of such period the powers by this Act granted to the Undertakers for executing such works 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 Undertakers from extending their mains and pipes, or from laying down and making larger or additional mains and pipes, from time to time, whenever it shall be necessary for the purpose of supplying water for the purposes of this Act.

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Period within which works are to be completed.

14. For the protection of the corporation the following provisions shall have effect; (that is to say,)

Provisions for protection of corporation.

(1.) Prior to the execution of any works by this Act authorised within the limits of deviation shown upon the deposited plans referred to in the Manchester Corporation Waterworks Act, 1879, the Undertakers shall give one calendar month's notice in writing to the town clerk of the city of Manchester, and all works executed within such limits shall be executed under the superintendence of and to the reasonable satisfaction of the engineer of the corporation:

42 & 43 Vict. c. xxxvi.

(2.) In the execution and maintenance of the works by this Act authorised the works shall be so constructed and maintained as not to interfere with the line, level, position, and construction of the intended aqueduct of the corporation sanctioned by the Manchester Corporation Waterworks Act, 1879, and as delineated on the said deposited plans and sections, and so that the works shall be self-supporting and independent of the intended aqueduct of the corporation. The works shall be executed according to plans, sections, and drawings previously submitted to and approved in writing by the engineer of the corporation, and at such level as shall be shown upon such sections and approved as aforesaid:

(3.) If by reason of the execution of the works by this Act authorised any water main, pipe, or conduit of the corporation be injured, or any additional or increased length of main, pipe, or conduit become requisite, the corporation, at the expense of the Undertakers in all things, may make such repairs, connexions, and additions as may be required; provided that if the corporation neglect after reasonable notice to make the same, they may be made by the Undertakers:

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- (4.) If by reason of the execution of any of the works by this Act authorised any interruption be occasioned to the supply of water by the corporation, the Undertakers shall forfeit and pay to the corporation the sum of fifty pounds for every day during which such interruption shall continue, and the corporation may recover the same with full costs of suit in any court of competent jurisdiction :
- (5.) The Undertakers shall not, except with the consent of the corporation under their corporate seal, either directly or indirectly, supply water for any purpose in any township or place within the limits for the time being of the supply of water by the corporation, or within the limits of any district now supplied by the corporation, by virtue of any agreement with a local authority of any such district, during the continuance of any such agreement :
- (6.) If any difference arise between the corporation and the Undertakers touching this section, or anything to be done or not to be done, or any money, other than a penalty, to be paid thereunder, such difference shall be determined by an arbitrator to be agreed upon between the parties, or in default of agreement to be appointed (on the application of either of the parties) by the President for the time being of the Institution of Civil Engineers :
- (7.) Nothing in this Act contained shall prejudice or affect any of the rights or privileges of the corporation under their existing Acts, or any Act or Acts incorporated therewith.

Lands, &c.
to be vested
in trustees.
21 & 22 Vict.
c. 92.
34 & 35 Vict.
c. 14.

15. All lands, houses, and streams, and all estates and interests therein, and also all rights of way and other easements purchased or taken by the Undertakers for the purposes of this Act, shall be conveyed to or vested in the clerk of the peace, pursuant to the provisions of the County Property Acts, 1858 and 1871, in trust for the purposes of this Act, and any conveyance to be so made shall have the like force and effect as a conveyance made under section eighty-one of the Lands Clauses Consolidation Act, 1845.

Power to
borrow on
mortgage of
county rate.

16. The Justices may, in the manner prescribed by the Lunatic Asylums Act, 1853, and subject to the provisions therein contained, raise or from time to time borrow and take up at interest, on the credit of the county stock or rate, such sums of money, not exceeding twenty thousand pounds, as may be necessary for defraying the expense of constructing the waterworks authorised by this part of this Act.

Maintenance
of water-
works when
completed.

17. After the waterworks shall have been completed the same shall be deemed part of the asylum, and the costs and expenses of maintaining the waterworks and incident thereto, and of supplying

water therefrom, and also any sum of money which in any year the Undertakers may be required to pay by way of compensation for loss of water in consequence of their works to the owners, lessees, or occupiers of any mills, manufactories, or other works using the waters of the said streams, shall be defrayed and the money therefor be raised in the same manner as the other current expenditure relating to the asylum is by the Lunatic Asylums Act, 1853, directed to be paid and provided for.

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18. The purchase moneys or net proceeds derived by the Undertakers from the sale of any superfluous lands shall from time to time be paid to the treasurer of the said county, and be applied in the first instance in the payment of any moneys borrowed under the authority of this part of this Act which shall then remain unpaid, and subject thereto the same shall be applied to the purposes of this part of this Act.

Application of proceeds of sale.

PART II.

COURTS FOR GENERAL OR QUARTER SESSIONS.

19. The Justices assembled at any court or adjourned court of annual general sessions of the peace are hereby empowered to provide within the hundred of West Derby, in the said county, commodious courts, offices, lock-ups, and all other accommodation that may be necessary or convenient for carrying on the business usually transacted at courts of general or general quarter sessions of the peace, or to hire temporarily any buildings and make any other temporary arrangements that may be necessary for the purpose of holding the said courts of general and general quarter sessions.

Power to Justices to erect courts for quarter sessional purposes.

20. The Justices in annual general sessions assembled as aforesaid are hereby empowered for the purposes of this part of this Act, but by agreement only, to purchase, take on lease, or otherwise acquire any land or buildings not exceeding three acres.

Power to purchase lands, &c.

21. Any lands or buildings acquired by the Justices under this part of this Act may be conveyed, assigned, or demised to the clerk of the peace, to be held in trust by him for the purposes of this part of this Act.

As to conveyance of lands.

22. All expenses incurred in carrying into effect the purposes of this part of this Act, including any expenses incurred in making such temporary arrangements as aforesaid, shall be defrayed out of the general county rate.

Expenses to be defrayed out of county rate.

23. The Justices may in annual general sessions assembled order and direct that the proceeds arising from the sale of the court house, and other premises adjoining thereto, at Kirkdale in the said county,

Proceeds of sale of Kirkdale court house to

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be applied
towards
expenses.

shall be applied in and towards the expenses of carrying into effect the provisions of this part of this Act ; provided that the Justices may, if they think fit, and until this part of this Act comes into operation, invest the said proceeds in such manner as they may direct, and apply the interest arising therefrom in and towards the payment of the rent due in respect of the temporary occupation of premises for holding therein the said courts of general and general quarter sessions.

Power to
Justices to
borrow on
security of
county rate.

24. The Justices assembled at annual general sessions as aforesaid may from time to time borrow at interest on the security of the county rate any moneys, not exceeding twenty-five thousand pounds, that may be necessary for defraying the whole or a portion of the expenses incurred in carrying into effect the purposes of this part of this Act, and for the purpose of securing the repayment of any sums so borrowed, together with interest, the Justices may assign to the person by or on behalf of whom such sums are advanced the county stock or rate. All sums borrowed by the Justices under the authority of this Act shall be repaid within thirty years of the time of borrowing the same.

As to mort-
gages by
Justices.

25. For the purposes of any mortgages made in pursuance of this part of this Act the clauses of the Commissioners Clauses Act, 1847, with respect to mortgages to be executed by and the indemnification of the commissioners (except section eighty-four), shall be incorporated with this part of this Act, and in the construction of the incorporated clauses the Justices shall be deemed to be the commissioners and the clerk of the peace to be the clerk of the commissioners.

Justices to
have control
of buildings.

26. The Justices assembled as aforesaid shall have the sole and entire control, repair, management, and use of all buildings and premises acquired for the purposes of this part of this Act, and it shall be lawful for them to use or permit the use of any such buildings and premises for any lawful purpose at such times, in such manner, upon such conditions, and for such consideration as they may think proper, but so as not to interfere with the use of such buildings and premises for the purposes primarily contemplated by this part of this Act.

As to con-
tracts by
Justices.

27. All acts and contracts (except conveyances and mortgages) which the Justices are by this Act expressly or impliedly authorised to do or make may be done or made in the name and on behalf of the Justices by any two or more of their number for the time being appointed by order of the Justices in annual general sessions assembled as aforesaid to act on their behalf, subject to this restriction, that no act done or contract made by such appointees shall be valid unless it be subsequently sanctioned by some order of the Justices in annual general sessions assembled as aforesaid.

28. It shall be lawful for the Justices assembled as aforesaid from time to time (and they are hereby required within ten years after the courts and other buildings and accommodation by this Act authorised to be erected or provided shall have been completed and opened for use) to dispose of and sell any lands and premises acquired under and for the purposes of this part of this Act and found unfit or no longer wanted for such purposes. The purchase moneys derived from the sale of any superfluous lands shall be paid to the treasurer of the said county, and shall be applied in the first instance in payment of any moneys borrowed under the authority of this part of this Act which shall then remain unpaid, and subject thereto, the same shall be applied to the purposes of this part of this Act.

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Lands, &c.
not wanted
may be sold.

29. Any borough in the county having at the time of the passing of this Act a separate court of quarter sessions shall not be liable to contribute any sum or sums in respect of any expenses incurred or moneys borrowed, or of any interest on such moneys, for lands or buildings which may hereafter be acquired or erected for courts, offices, lock-ups, or other accommodation that may be necessary or convenient for carrying on the business usually transacted at courts of general or general quarter sessions of the peace for the county, or for the erection, maintenance, repair, or furnishing of any such courts, offices, or lock-ups, or otherwise in respect thereof.

Protection of
boroughs
having sepa-
rate courts of
quarter ses-
sions.

30. All expenses of and incidental to the passing of this Act shall be paid out of the general county rate.

Expenses of
Act.

