



CHAPTER xix.

An Act to enable the Mayor Aldermen and Burgesses of the Borough of Blackburn to abandon the construction of the Dunsop Compensation Reservoir and to extend the time for the construction of authorised Waterworks and for other purposes. A.D. 1885.
[21st May 1885.]

WHEREAS the borough of Blackburn in the county palatine of Lancaster is a municipal borough under the government of the mayor aldermen and burgesses of the borough (herein-after in this Act referred to as "the Corporation") and is subject to the Acts relating to municipal corporations:

And whereas the Corporation acting by the council of the borough are the sanitary authority for the district of the borough with the powers and obligations of an urban sanitary authority:

And whereas by the Blackburn Borough Gas Water and Extension Act 1877 (herein-after in this Act referred to as "the Improvement Act 1877") the Corporation were empowered to make and maintain certain waterworks:

And whereas by the Blackburn Improvement Act 1882 (herein-after in this Act referred to as "the Improvement Act 1882") the enactments then in force relative to the improvement and government of the borough the gas and water supply the markets and other matters were consolidated and amended:

And whereas it is expedient that the Corporation be authorised to abandon the construction of the Dunsop Compensation Reservoir authorised to be constructed by the Improvement Act 1877 and to make other provisions as in this Act provided in lieu of discharging compensation water therefrom:

And whereas the Corporation have constructed part of the waterworks authorised by the Improvement Act 1877 and it is expedient that the time limited for the construction of the remainder of the

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And whereas it is expedient that further powers as to investment of their sinking funds should be conferred upon the Corporation :

And whereas thirty-nine of the whole number of the council at a meeting held on the twelfth day of November one thousand eight hundred and eighty-four after ten clear days notice by public advertisement of such meeting and of the purposes thereof in the *Blackburn Standard* a local newspaper published and circulating in the borough (such notice being in addition to the ordinary notices required for summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund :

And whereas such resolution was published twice in the *Blackburn Standard* a newspaper published and circulating in the borough and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by thirty-four of the whole number of the council at a further special meeting held in pursuance of a similar notice on the eleventh day of March one thousand eight hundred and eighty-five being not less than fourteen days after the deposit of the Bill in Parliament :

And whereas the owners and ratepayers of the borough by resolution in the manner provided in Schedule III. of the Public Health Act 1875 consented to the promotion of the Bill for this Act :

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 *Blackburn Water Act 1885*.

Interpretation of terms.

2. In construing this Act the following words and expressions shall have the meanings hereby assigned to them respectively unless there be something in the subject or context repugnant to such construction (that is to say) :

“The borough” means the municipal borough of Blackburn ;

“The council” means the town council of the borough ;

“The borough fund” means the borough fund of the borough ;

“The Municipal Corporations Acts” means the Municipal Corporations Act 1882 and any Act for the time being in force amending the same or otherwise relating to municipal corporations in England ;

“The Public Health Acts” means the Public Health Act 1875 and all Acts for the time being in force for amending or extending the same; A.D. 1885.

“Waterworks” and “waterworks undertaking” respectively mean and include the waterworks and the waterworks undertaking of the Corporation as existing under any of the powers contained in the Improvement Act 1877 or the Improvement Act 1882;

The “Dunsop Compensation Reservoir” the “Brennand Reservoir” and the “Whitendale Reservoir” mean respectively the Dunsop Compensation Reservoir the Brennand Reservoir and the Whitendale Reservoir authorised to be constructed by the Improvement Act 1877 :

Provided that in this Act the expression “superior court” or “court of competent jurisdiction” shall include any such court as would have jurisdiction if the debt or demand with respect to which that expression is used were a simple contract debt and not a debt or demand created by statute.

3. Subject to the provisions of this Act this Act shall be carried into execution by the Corporation acting by the council and according to the Municipal Corporations Acts the Public Health Acts and other Acts respectively for the time being in force and affecting the Corporation as a municipal body and as a sanitary authority respectively and with all the rights duties powers privileges exemptions and authorities conferred and imposed by those Acts respectively on the Corporation or on the council and committees and sub-committees of the council and the officers agents and servants of the Corporation with respect to matters provided for by or comprised in the Municipal Corporations Acts the Public Health Acts and the other Acts respectively and as nearly as may be in all respects as if the powers duties exemptions and property vested in imposed on or enjoyed by them by or under this Act were vested in imposed on or enjoyed by them under the Municipal Corporations Acts the Public Health Acts and the other Acts respectively. Act to be executed by council.

4. The Corporation may and shall abandon and relinquish the construction of the Dunsop Compensation Reservoir and may sell or otherwise dispose of or retain all or any part or parts of the site of that reservoir and all or any part or parts of the lands of the Corporation adjacent thereto or held in connexion therewith and subject to the reservation of any rights powers and privileges the Corporation may deem necessary to retain for the purposes of their waterworks undertaking. Abandonment of Dunsop Compensation Reservoir.

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Repeal of
parts of the
Improve-
ment Act
1877.

5. The following sections and parts of section of the Improvement Act 1877 are hereby repealed (namely):

- (A) Section 39 subsection (3) and subsection (18) so far as they relate to the Dunsop Compensation Reservoir;
- (B) Sections 47 to 54 both inclusive and section 61.

Provision as
to supply of
compensa-
tion water.

6. From and after the passing of this Act and subject to the provisions thereof the powers of the Corporation under the Improvement Act 1877 and this Act of taking diverting collecting appropriating and impounding water shall be subject to the following provisions (namely):—

- (1) The Corporation may take or use from the Brennand River and Whitendale River or any of their tributaries and from the brooks springs and streams draining to the waterworks authorised by the Improvement Act 1877 (but not directly from the Dunsop River) the waters flowing down those rivers or their tributaries and from the said brooks springs and streams respectively so long and so long only as the flow of water over or through the gauge herein-after in this section mentioned is not less than one hundred and fifty cubic feet per minute and they shall permit not less than that quantity of water to flow continuously and uninterruptedly down the River Dunsop in the same manner and course as the whole of the water thereof would but for the passing of the Improvement Act 1877 and of this Act flow down that river;
- (2) The water so to be permitted to flow down the River Dunsop shall be for the use and benefit of all persons who but for the passing of the Improvement Act 1877 and of this Act would be entitled to the flow of the respective waters of which the same forms part and except as otherwise in this Act provided shall be taken as full compensation for and in respect of the abstraction and diversion of all water which the Corporation are empowered to collect or divert from the lands draining to the works authorised by the Improvement Act 1877;
- (3) The Corporation shall maintain in good repair and in a condition effectual for the purpose the existing gauge and gauge-basin and such works at the Dunsop River immediately below the confluence of the Rivers Brennand and Whitendale as shall be proper and sufficient for the purpose of conveniently measuring and as far as practicable automatically recording the flow of water from the Brennand River and the Whitendale River into and down the Dunsop River as aforesaid and such gauge and gauge-basin shall as far as practicable be so maintained as not to entrap or destroy fish.

(4) The Corporation shall also maintain such a daily register as shall be reasonably proper and sufficient for the purpose of recording the flow of water aforesaid and shall preserve each such register during each current year dating from the passing of this Act in some convenient place at the site of the waterworks in the township of Bowland and for every day or part of a day during which the Corporation shall wilfully or after written notice negligently fail to maintain such register in manner aforesaid they shall forfeit and pay a penalty not exceeding ten pounds and such penalty may be recovered by any person entitled to the flow of the waters of the Dunsop River in respect of premises situate above the junction of the Rivers Hodder and Ribble and in the manner in which penalties not otherwise provided for are directed to be recovered by the Waterworks Clauses Act 1847 or in any court of competent jurisdiction. Provided the Corporation shall not be liable to pay more than one penalty in respect of any one day.

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7. Subject to the provisions of this Act it shall be lawful for any person entitled to the flow of the waters of the Dunsop River in respect of premises situate above the junction of the Rivers Hodder and Ribble to have access at all times to the said last-mentioned gauge works and registers for the purposes of measuring gauging and ascertaining the quantity of water from time to time passing through or over the said gauge.

Inspection of gauge.

8. In case the Corporation shall wilfully or after written notice negligently take or use from the Brennand River or the Whitendale River or any of their tributaries or the brooks springs or streams draining to the waterworks authorised by the Improvement Act 1877 any water at any time or times whilst the flow over or through the gauge mentioned in the section of this Act the marginal note whereof is Provision as to supply of compensation water shall be less than one hundred and fifty cubic feet per minute the Corporation shall for and during every day or part of a day on which any water shall be so taken or used by them forfeit and pay by way of penalty to any person entitled to the flow of the waters of the Dunsop River in respect of premises situate above the junction of the Rivers Hodder and Ribble the sum of ten pounds. Such penalties to be recovered in the manner in which penalties not otherwise provided for are directed to be recovered by the Waterworks Clauses Act 1847 or in any court of competent jurisdiction and any such person shall not be required to show that he or she has actually sustained damage or incurred loss by reason of such taking or user of water by the Corporation.

Penalty in the event of Corporation taking more than authorised quantity of water.

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Corporation
to pay com-
pensation in
money in
lieu of com-
pensation
water.

9. The Corporation shall pay compensation in money to the several persons entitled to the flow of the waters of the Dunsop River in respect of premises situate above the junction of the Rivers Hodder and Ribble in lieu of constructing and making the Dunsop Compensation Reservoir by this Act required to be abandoned and discharging therefrom compensation water and the amount of such compensation in money shall in case of dispute be determined in manner provided by the Lands Clauses Consolidation Act 1845 (as amended by any subsequent Act) for determining the amount of compensation paid for lands taken under the provisions thereof.

Extending
powers of
the Settled
Land Act
1882 or the
Lands
Clauses Con-
solidation
Act 1845.

10. Persons empowered by the Settled Land Act 1882 or the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of any Act or Acts amending those Acts respectively and of this Act agree with the Corporation for and accept compensation in money under the provisions of the last preceding section of this Act and the provisions of the said Acts so far as the same are applicable in this behalf shall extend and apply to such persons and compensation.

Form of
release for
compensa-
tion money.

11. Releases to the Corporation in respect of any money payable by them under the provisions of the two last preceding sections of this Act may be according to the form in the schedule to this Act or as near thereto as the circumstances of the case will admit or by deed in any other form which the Corporation may think fit.

Power to
agree for
works with
riparian
owners.

12. In lieu of or in addition to the money compensation which the Corporation are by this Act required to pay as provided by the section of this Act the marginal note whereof is Corporation to pay compensation in money in lieu of compensation water the Corporation and any persons interested may agree for the execution and maintenance by the Corporation of any roads pipes or other accommodation works for the benefit of the respective properties concerned.

Extension of
time for
completion
of water-
works autho-
rised by the
Improve-
ment Act
1877.

13. If the Brennand Reservoir and the Whitendale Reservoir and the other works authorised by the Improvement Act 1877 and remaining uncompleted at the date of the passing of this Act are not completed within fifteen years from the passing of this Act then on the expiration of that period the powers granted by the Improvement Act 1877 to the Corporation for making and completing the said respective reservoir or work or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed. Provided always that subject to the provisions of the Improvement Act 1877 and of this Act the Corporation may from time to time alter enlarge extend or remove their tanks

gauges gauge basins engines machinery wells mains pipes and other works or improve their water supply in such way and manner as occasion requires. A.D. 1885.

14. The Corporation may apply for all or any of the purposes of this Act to which capital is properly applicable any of the moneys which they are authorised to borrow for their waterworks undertaking and they may exercise for the purposes aforesaid such borrowing powers accordingly. Power to apply existing borrowing powers.

15. In addition to the existing powers of the Corporation relative to the investment of money set aside by them and forming part of any sinking fund or other fund for the redemption of any annuities or other charges charged upon the revenue of the waterworks undertaking it shall be lawful for the Corporation from time to time to invest any money so set aside by them in Corporation stock as defined by subsection 7 of section 296 of the Improvement Act 1882 Provided that this power shall not be held to apply to any sinking fund created by direction of the Commissioners of Her Majesty's Treasury under the provisions of the Municipal Corporations Acts. Corporation may invest sinking fund or fund for the redemption of annuities in Corporation stock.

16. Penalties imposed for one and the same offence by several Acts of Parliament shall not be cumulative. Penalties not to be cumulative.

17. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act including the costs incurred by the Corporation in complying with the provisions of the Act 35 and 36 Victoria cap. 91 with respect to the Bill for this Act and all matters relating thereto as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the borough fund or out of any moneys which they are authorised to raise by borrowing on the security of that fund. Costs of Act.

