

[32 & 33 VICT.] *The Borough of Truro Waterworks* [Ch. cxxxix.]
Act, 1869.



CHAP. cxxxix.

An Act for better supplying with Water the Borough of Truro A.D. 1869.
in the county of Cornwall. [26th July 1869.]

WHEREAS the present supply of water to the borough of Truro in the county of Cornwall is insufficient for the wants of the inhabitants thereof, and it is expedient to increase and improve such supply, and for such purposes to make and maintain the works herein-after mentioned :

And whereas plans and sections of the reservoirs, aqueducts, or main pipes, and other works proposed to be made for the purpose of affording a better supply of water as aforesaid, showing the line and levels thereof, with a book of reference to such plans, have been deposited with the clerk of the peace for the county of Cornwall, and those plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book of reference :

And whereas the persons herein-after named, and others, are willing at their expense to provide such increased and improved supply, and to make and maintain the necessary works for the purposes aforesaid, on being incorporated into a company (in this Act called " the Company ") for that purpose :

And whereas the objects aforesaid cannot be attained 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 :

1. This Act may be cited for all purposes as " The Borough of Truro Waterworks Act, 1869." Short title.

2. The limits of this Act shall be the borough of Truro in the county of Cornwall. Limits of Act.

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General Acts
herein named
incorporated.

3. "The Companies Clauses Consolidation Act, 1845," Parts I. and III. of "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and "The Waterworks Clauses Acts, 1847 and 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

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 shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the company" shall mean the company incorporated by this Act, the expression "the undertaking" shall mean the undertaking by this Act authorized or any part thereof, and 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.

Company
incorporated.

5. Charles Walker, Stephen Orchard, Henry Samuel Freeman, John Whitaker Bush, William Thomas Fraser, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of supplying with water the inhabitants, buildings, lands, and premises within the limits of this Act, and for making and maintaining waterworks for that purpose, together with all proper works and conveniences connected therewith, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Truro Water Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Power to
make works
according to
deposited
plans.

6. Subject to the provisions of this Act, the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the several works by this Act authorized and herein-after described, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose. The works herein-before referred to and authorized by this Act are,—

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- I. A storage basin or reservoir and filtering beds, with all necessary excavations, embankments, fences, and other works connected therewith, to be situated in the parish of Saint Erme in the said county, and on the Trevella river or stream, commencing at a point near that stream twenty-five yards or thereabouts southward from the southernmost road leading from the village of Trispin to Trevella House in the said parish, and terminating one hundred and forty-three yards or thereabouts above or on the north of the road leading from Saint Erme Church to Nausough in the parish of Ladock in the said county :
- II. Conduits, aqueducts, tunnels, cuts, or lines of pipes in the said parish of Saint Erme and in the parish of Saint Clement in the said county, commencing at a junction with the said storage basin or reservoir, passing through the southern embankment thereof, and terminating at the service reservoir herein-after next mentioned :
- III. A service reservoir in the field numbered eight hundred and forty in the tithe commutation map of the said parish of Saint Clement, and situated about two hundred and twenty yards southward from Mitchell Hill turnpike gate in the same parish, and adjoining or near to the turnpike road leading from Truro aforesaid to Mitchell village :
- IV. Conduits, aqueducts, cuts, or lines of pipes in the said parish of Saint Clement and the parishes of Saint Mary (Truro) and Kenwyn in the said county of Cornwall, or one of them, commencing at a junction with the said service reservoir, and terminating at or near the Cornish Bank in Duke Street in the said parish of Saint Mary at the western extremity of that street.

7. Whereas the Travella river, upon which the storage reservoir by this Act authorized will be situated, is carried under the Cornwall Railway by means of a culvert, and it is expedient that provision should be made for the protection of the said railway and the works connected therewith from any damage or inconvenience resulting from the works or operations of the Company : Therefore, notwithstanding anything in this Act, it shall not be lawful for the Company to commence the construction of the storage reservoir, or of any of the works connected therewith, until after the Company shall have delivered to the Cornwall Railway Company plans, drawings, and sections of the storage reservoir, and the works connected therewith, with specifications in writing describing the proposed manner of executing the same, and shall have obtained from the principal

For protection of railway and works of the Cornwall Railway Company.

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Provision
for supply of
water to mill
in the parish
of Saint
Erme.

8. Whereas the supply of water to the mill in the parish of Saint Erme, in the occupation of Ralph Magor, and belonging or reputed to belong to Richard Gully Bennet and Augustus Smith, trustees of the will and codicils of the late Edward William Wynne Pendarves, and to Tryphena Wynne Pendarves, tenant for life of the estates in Cornwall of the said Edward William Wynne Pendarves, may be diminished by the works authorized by this Act, such works shall be executed only under the conditions following; (that is to say,)

The Company shall, without payment, provide for the use of the owners and occupiers of the said mill, and convey into the mill-pond of the said mill so much water as, with waters coming into the millpond from other sources, will enable the said mill to be worked for the periods following; (that is to say,) for fifteen consecutive hours in every day of twenty-four hours between the first day of October and the first day of May in every year, for five consecutive hours in the daytime of every day of twenty-four hours between the first day of May and the first day of July in every year, and for three consecutive hours in the daytime of every day of twenty-four hours between the first day of July and the first day of October in every year:

If the Company shall make default in making such provision as aforesaid, they shall for every day during which such default shall be made forfeit to the trustees or trustee for the time being of the will and codicils of the said Edward William Wynne

Pendarves, or other the owners or owner for the time being of the said mill, the sum of five pounds, which shall be recoverable as liquidated damages and not as penalty, with costs, in any court of competent jurisdiction, and without proof of special damage :

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If the Company shall fail within the time limited by this Act to complete the works by this Act authorized, or shall at any time after the passing of this Act cease to supply with water the inhabitants, buildings, lands, and premises within the limits of this Act, and to maintain waterworks for that purpose, it shall be lawful for the trustees or trustee for the time being of the will and codicils of the said Edward William Wynne Pendarves, or other the owners or owner for the time being of the said mill, after fifteen days notice in writing to the Company or their agent, to enter upon their works, and to remove any obstruction to the flow of water to the said mill, and to do all acts necessary to cause the water to flow for the use of the said mill, in like manner as it has heretofore flowed.

9. Whereas the storage reservoir and the works connected therewith by this Act authorized are intended to be made or constructed in part on lands now belonging or reputed to belong to Henry Trethewy and Henry Trethewy the younger, whereby the present supply of water from the Trevella river or stream to those lands and to other lands belonging or reputed to belong to the said Henry Trethewy and Henry Trethewy the younger will be intercepted or diverted : Therefore the Company shall, before they commence to take, intercept, or divert any water from the said Trevella river or stream, make and for ever thereafter maintain and keep filled with water, free of charge, in each of the fields numbered on the deposited plans 7, 13, 14, 31, 33, and 37 respectively, in the parish of Saint Erme, a trough or cistern of a size not less than eight feet by one foot nine inches, and two feet deep ; and if the Company fail to make and maintain the said troughs or cisterns respectively, or to keep the same filled with water, they shall forfeit and pay to the said Henry Trethewy and Henry Trethewy the younger, or other the owner or owners for the time being of the said lands, the sum of five pounds, and the further sum of one pound for every day during which such failure shall continue.

Company to provide troughs for cattle on certain lands of Messrs. Trethewy.

10. Notwithstanding anything contained in or done under this Act, or any Act incorporated therewith, the said Henry Trethewy and Henry Trethewy the younger, their or either of their heirs, appointees, or assigns, shall have (for themselves and all others, by their or either of their authority) the sole and exclusive right of

Rights of fishing, &c. in reservoir reserved to Messrs. Trethewy.

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Capital. 11. The capital of the Company shall be twenty thousand pounds, in two thousand shares of ten pounds each.

Shares not to issue until one fifth paid up. 12. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls. 13. 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.

Power to borrow on mortgage. 14. The Company may from time to time borrow on mortgage any sum not exceeding in the whole five thousand pounds, but no part thereof shall be borrowed until the whole capital of twenty 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 fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that the whole of such capital has been subscribed for, issued, and accepted, and that 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 that such capital was issued *bonâ fide* and is held by the subscribers or their assigns, and that such subscribers or their 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 shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver. 15. 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

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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 five hundred pounds in the whole.

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16. The Company may create and issue debenture stock.

Debenture stock.

17. All monies to be borrowed on mortgage under this Act, from the time when the said monies shall be advanced, and the interest for the time being due thereon, 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 to be incurred, or engagements entered into or to be entered into, by them: Provided always, that such priority shall not prejudice or affect any claim against the Company or their property in respect of any rentcharge to be granted by them in pursuance of the provisions of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860;" nor shall anything hereinbefore contained prejudice or affect any claim or lien in respect of any land taken, used, or occupied by the Company for the purposes of the undertaking, or injuriously affected by the construction thereof, or by the exercise of any of the powers by this Act conferred on the Company.

Monies borrowed on mortgage to have priority.

18. All monies raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

Application of monies.

19. The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

First ordinary meeting.

20. At all the meetings of the Company every holder of three shares and under shall be entitled to one vote, and every shareholder shall be entitled to an additional vote for every three shares held by him beyond the first three.

Manner of voting at meetings.

21. The number of shareholders on whose requisition an extraordinary meeting of the Company may be required to be convened shall not be less than three shareholders holding in the aggregate not less than five hundred pounds in the capital of the Company.

Number of shareholders to convene extraordinary meeting.

22. The newspaper for advertisements shall be any newspaper published or circulating in the county of Cornwall.

Newspaper for advertisements.

23. The number of directors shall not be more than five, but the Company may from time to time reduce the number, provided the number be not less than three.

Number of directors.

24. The qualification of a director shall be the possession in his own right of not less than ten shares.

Qualification of directors.

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Quorum.

25. The quorum of a meeting of directors shall be three, unless the number of directors shall be reduced to three, in which case the quorum shall be two.

First directors.

Election of directors.

26. Charles Walker, Stephen Orchard, Henry Samuel Freeman, John Whitaker Bush, and William Thomas Fraser shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Lands for extraordinary purposes.

27. The Company may from time to time by agreement purchase or acquire for the purposes of this Act any lands not exceeding in quantity three acres, in addition to the lands which they are by this Act authorized to take by compulsion.

Powers for compulsory purchases limited.

28. The powers of the Company for 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 completion of works.

29. The works by this Act authorized shall be completed within five years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed: Provided, that nothing in this Act shall restrain the Company from extending their reservoirs, aqueducts, mains, pipes, works, and conveniences from time to time whenever they find it requisite for the purposes of increasing their supply of water or supplying water within the limits of this Act.

Power to take lands and waters

30. Subject to the provisions of this Act, the Company may enter upon, take, and use for the purposes of this Act such of the

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lands, streams, reservoirs, and waters shown on the deposited plans and specified in the deposited book of reference as they think fit.

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for purposes of Act.

Power to take water.

31. The Company from time to time, for the purposes of their undertaking, may intercept, take, and use the waters from the Trevella river or stream, and the springs, tributaries, and branches thereof, which now flow into a navigable branch of the Truro river, commonly called Tresillian creek or river.

32. Subject to the provisions of "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," the persons by that Act authorized to sell and convey or release lands shall have full power to grant to the Company any easement, not being an easement of water, liberty, or privilege in or over or affecting any lands, streams, or waters authorized to be taken by this Act; and the provisions of "The Lands Clauses Consolidation Act, 1845," as amended by "The Lands Clauses Consolidation Acts Amendment Act, 1860," with reference to the purchase of lands by agreement, shall extend to the purchase by agreement of easements, liberties, and privileges in or over lands.

Owners may grant easements.

33. In making the works by this Act authorized, the Company may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans, and vertically to any extent, in case of reservoirs, not exceeding three feet, and in case of any other work to any extent not exceeding five feet: Provided that where any work is to be made in any road the limits of lateral deviation, if not otherwise shown on the deposited plans, are the boundaries of the road.

Deviations.

34. The Company shall not be compelled to carry water to a higher level than can be reached by the pressure afforded by their reservoirs.

Supply of water under pressure.

35. Where there are several tenements in a row, no tenant or occupier of any one of the tenements, nor any person on his behalf, shall take or use the water laid on by the Company to any other such tenement unless the tenant or occupier be, in respect of the tenement so occupied by him, rated under this Act for a supply of water; and every person so taking or using water, or allowing the same to be used contrary to the provisions of this Act, shall for every such offence forfeit and pay to the Company any sum not exceeding five pounds.

Supply of water to tenements in a row.

36. The Company shall, at the request of every person entitled under this Act to demand a supply of water, furnish to the occupier

Rates for supply of water for

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domestic
purposes.

of every dwelling house or part of a dwelling house to which the request relates, within the limits in that behalf of this Act, a sufficient supply of wholesome water for the domestic purposes, including one watercloset, of every such occupier, at any rate not exceeding the following rates ; (that is say,)

Where the yearly value of the premises supplied does not exceed five pounds, at a rate not exceeding one penny per week :

Where the annual value of a house or part of a house shall exceed five pounds and not exceed twenty pounds, a yearly rate not exceeding seven pounds per centum on the annual value of such house or part of a house :

Where such annual value shall exceed twenty pounds, a yearly rate not exceeding six pounds per centum on the amount of such annual value.

Rates for
waterclosets
and baths.

37. The Company may charge in any one year in respect of the first bath supplied with water in or belonging to any private dwelling house the sum of ten shillings, and in respect of every watercloset beyond the first, and of every bath beyond the first, the sum of five shillings.

Rates pay-
able quar-
terly in
advance.

38. The rates for a supply of water for domestic purposes shall be payable in advance by equal quarterly payments on Lady-day, Midsummer-day, Michelmas-day, and Christmas Eve in every year.

Rates for
supply to
shipping.

39. The Company from time to time may demand and take from all persons requiring or taking any supply of the Company's water for the purpose of shipping any sums not exceeding one shilling for the first one hundred gallons, or any quantity less than one hundred gallons, and sixpence for every additional one hundred gallons, or any additional quantity less than one hundred gallons, so supplied, and may require payment for the same in advance.

Water for
other than
domestic
purposes to
be supplied
by agree-
ment.

40. The Company may supply any person with water for other than domestic purposes for such remuneration and on such terms and conditions as are agreed on between the Company and the persons desirous of having the supply: Provided always, that the Company shall not supply water for other than domestic purposes, if the same shall in any way interfere with or unduly diminish the supply of water for domestic purposes, as by this Act authorized.

Penalty for
using water
for other
than do-

41. Every person using for other than domestic purposes any water of the Company, without having previously agreed with them for a supply of water for other than domestic purposes, or

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any person using for any purpose other than the purposes so agreed on any water so supplied by the Company, shall for every such offence forfeit and pay to the Company any sum not exceeding five pounds.

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mestic pur-
poses with-
out agree-
ment.

42. The Company shall not be obliged to supply any water unless the pipes and cocks and other apparatus necessary for the supply are constructed of such strength, material, and size, and on such principle as are required or approved by the Company, and are used so as to prevent the waste or undue consumption of the water of the Company, and the return of foul air and other noisome or impure matter into the pipes belonging to or connected with the mains or pipes of the Company.

Regulation
for supply of
water.

43. In case any consumer of the water of the Company shall leave the premises where such water has been supplied without paying to the Company the rate due from him, the Company shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant shall have agreed with the former tenant to pay or exonerate him from the payment of such arrears.

Incoming
tenant not
liable to pay
arrears of
water rate.

44. All rates and sums due to the Company, and all damages, costs, and expenses by this Act directed to be paid, and the amount whereof respectively is not disputed, may be levied by distress after the defaulter has been duly summoned, and any justice, on application by the Company, may and shall issue his warrant accordingly.

Undisputed
rates may be
recovered by
distress.

45. Any justice who issues any such warrant of distress may order that the costs of the proceedings for the recovery of the rate or sum shall be paid by the person liable to pay the rate or sum, and the costs shall be ascertained by the justice, and shall be included in the warrant of distress for the recovery of the rate or sum.

Costs of
distress.

46. Any number of names and sums may be included in any warrant of distress or notice obtained or given by the Company for any of the purposes of this Act, and may be stated either in the body of the warrant or notice, or in a schedule thereto.

Several
names in one
warrant.

47. No justice or judge of any county court shall be disqualified from acting in the execution of this Act by reason of his being liable to any rate or sum under this Act, or by reason of his being a shareholder in the Company.

Liability to
rates not to
disqualify
justices.

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Penalties not
cumulative.

48. Penalties imposed on the Company by several Acts for one and the same offence shall not be cumulative, and for this purpose this Act, and each of the several Acts incorporated therewith, shall be deemed a separate Act.

Expenses
of Act.

49. 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.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1869.