



CHAPTER cxxxv.

An Act to enable the urban district council for the urban district of Whitby in the North Riding of the county of York to acquire the undertaking of the Whitby Harbour Trustees and the market rights within the district as well as certain lands to make further provisions for the improvement and good government of the district and for other purposes. A.D. 1905.

[4th August 1905.]

WHEREAS the urban district of Whitby in the North Riding of the county of York (herein-after called "the district") is under the local government of the Whitby Urban District Council (herein-after called "the Council"):

And whereas by the Whitby Port and Harbour Act 1827 (herein-after called "the Act of 1827") the management and control of the piers and harbours of the town and port of Whitby and various other powers and duties in relation thereto were vested in certain trustees: 7 & 8 Geo. 4.
c. lxxviii.

And whereas by the Whitby Port and Harbour Act 1879 (herein-after called "the Act of 1879") the constitution of the said trustees was varied and they were made a body corporate under the name of "the Whitby Port and Harbour Trustees" (herein-after called "the trustees"):

And whereas by the Whitby Port and Harbour Order 1881 further powers were conferred on the trustees for the management of the harbour undertaking:

And whereas by the Whitby Port and Harbour Order 1883 the trustees were empowered to borrow for the dredging and improvement of the port and harbour sums not exceeding ten

A.D. 1905. — thousand pounds and it was provided that the Whitby District Local Board (herein-after called "the local board") who were the predecessors in office of the Council and a rating authority as defined by section 7 of the Public Works Loans Act 1882 might for the purpose of aiding the trustees in raising a loan under the said Order from the Public Works Loan Commissioners exercise the powers given by the said section 7 for guaranteeing the principal and interest of the loan :

And whereas in pursuance of the said Order of 1883 the trustees in the year one thousand eight hundred and eighty-seven mortgaged their harbour undertaking to the Public Works Loan Commissioners to secure the payment of interest on a loan of ten thousand pounds made by the said Commissioners to the trustees at the rate of three pounds ten shillings per centum per annum during a period of four years from the twenty-fourth day of March one thousand eight hundred and eighty-seven and the repayment by equal half-yearly instalments during a period of thirty-six years from the twenty-fourth day of March one thousand eight hundred and ninety-one of the said loan of ten thousand pounds with interest thereon at the rate of three pounds ten shillings per centum per annum and the local board in pursuance of the said Order guaranteed the repayment by the trustees of the half-yearly instalments of principal and interest :

And whereas the trustees have been unable to pay any of the instalments since the year one thousand eight hundred and ninety-one and all the instalments from time to time becoming due with interest accrued thereon have since the year one thousand eight hundred and ninety-one been paid by the local board or by the Council :

And whereas it is expedient that the trustees and the committee appointed by them under the said Order of 1883 be dissolved and that their harbour undertaking be transferred to and vested in the Council and that the Council be authorised to exercise in respect thereof all the powers of the trustees and such further powers as are in this Act contained :

And whereas it is expedient to authorise the Council to acquire the foreshore in the township of Ruswarp and to confer on the Council further powers for the regulation of the seashore and of pleasure boats and boatmen and bathing from the seashore :

And whereas it is expedient to authorise the Council to acquire by agreement the market rights and market property and also certain other manorial rights and property of the lord of the manor of Whitby within the district: A.D. 1905.

And whereas it is expedient to make such provisions in regard to slaughter-houses recreation grounds the licensing of porters advertisements and other matters as this Act contains:

And whereas the Council will or may require to borrow moneys for some of the purposes of this Act and it is expedient to empower them to borrow for those purposes subject to the provisions of this Act:

And whereas a plan of the lands proposed to be taken otherwise than by agreement under the powers of this Act and a book of reference thereto have been deposited with the clerk of the peace for the North Riding of the county of York:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas an absolute majority of the whole number of the Council at a meeting held on the eighteenth day of October one thousand nine hundred and four after ten clear days notice by public advertisement of such meeting and of the purpose thereof in the Whitby Gazette and the Whitby Times two local newspapers published and circulating in the district 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 district fund and general district rate:

And whereas such resolution was published twice in the Whitby Gazette and the Whitby Times two newspapers published and circulating in the district 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 an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the tenth day of January one thousand nine hundred and five being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule of the Borough Funds Act 1903 have been observed:

A.D. 1905. May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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) :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the Whitby Urban District Council Act 1905.

Division of Act into Parts. **2.** This Act is divided into Parts as follows :—

Part I.—Preliminary.

Part II.—Transfer of Harbour Undertaking.

Part III.—Market Slaughter-houses &c.

Part IV.—Lands.

Part V.—Recreation Grounds Regulation of Seashore &c.

Part VI.—Licences to Porters.

Part VII.—Advertisements.

Part VIII.—Police Provisions.

Part IX.—Financial.

Part X.—Miscellaneous.

Incorporation of Acts. **3.** The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act 1845) and the Harbours Docks and Piers Clauses Act 1847 (except the provisions thereof with respect to lifeboats and with respect to keeping a tide and weather gauge) are hereby incorporated with and form part of this Act.

Interpretation. **4.** In this Act unless the context otherwise requires terms and expressions to which meanings are assigned by the Acts incorporated herewith or by the Public Health Act 1875 have the same respective meanings And in this Act—

“The Harbour Acts and Orders” means the Act of 1827 the Act of 1879 the Whitby Port and Harbour Order 1881 (confirmed by the Pier and Harbour Orders Confirmation Act 1881) and the Whitby Port and

Harbour Order 1883 (confirmed by the Pier and Harbour Orders Confirmation (No. 2) Act 1883); A.D. 1905.

“The clerk” and “the surveyor” mean respectively the clerk and the surveyor of the Council;

“Seashore” means the beach sands and seashore within the township of Ruswarp in the district;

“Statutory security” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council;

“Daily penalty” means a penalty for every day on which any offence is continued after conviction therefor.

PART II.

TRANSFER OF HARBOUR UNDERTAKING.

5. On the first day of January one thousand nine hundred and six (in this Act called “the date of transfer”) the trustees shall be dissolved and the committee appointed by them under the Whitby Port and Harbour Order 1883 shall also be dissolved and on and from that date the harbour undertaking of the trustees (which expression in this Act includes all property real and personal and things in action belonging to or vested in the trustees and all their powers (exclusive of powers of borrowing money) rights duties obligations authorities and jurisdiction) shall be transferred to and vested in the Council subject to the debts contracts and liabilities affecting the same and the provisions of the Harbour Acts and Orders and of the enactments incorporated therewith shall so far as applicable and subject to the provisions of this Act apply to the Council and to the harbour undertaking when vested in the Council as fully and effectually as if the Council had been named in the said Acts and Orders instead of the trustees.

Transfer to
Council of
harbour
undertaking
of trustees.

A.D. 1905.
—
Actions &c.
not to abate.

6. Any action arbitration or other proceeding civil or criminal to which at the date of transfer the trustees were parties shall not abate or be prejudicially affected by reason of the transfer of the harbour undertaking but on the contrary may be continued by or against the Council as the case may be as fully and effectually as the same might have been continued by or against the trustees.

Contracts
&c. pre-
served.

7. All agreements contracts deeds instruments purchases or sales lawfully made or entered into by the trustees before the date of transfer shall after that date be effectual to all intents in favour of or against the Council as the case may be.

Books &c. to
be evidence.

8. All books documents and writings which would have been receivable in evidence in respect of any matter for or against the trustees shall after the date of transfer be admitted as evidence in respect of the same or the like matter for or against the Council as the case may be.

Mortgage
debt to
continue
charged as
heretofore.

9. The existing mortgage debt of the trustees and the interest thereon shall after the date of transfer continue to be charged as before that date on the harbour undertaking and the tolls rates and dues leviable in connection therewith and the property and effects pertaining thereto and on the district fund and general district rates of the urban district of Whitby.

As to pay-
ment of
other debts
owing before
date of
transfer.

10. All persons who immediately before the date of transfer owed any money to the trustees or to any person on their behalf shall pay the same with all interest (if any) due or accruing upon the same to the Council and all debts and moneys which immediately before the date of transfer were due or recoverable from the trustees or for the payment of which the trustees were or but for this Act would be liable shall be recoverable with all interest (if any) due or accruing upon the same from the Council and shall be payable and paid so far as may be out of the revenue of the harbour undertaking and subject as aforesaid out of the district fund and general district rates of the district.

Existing
officers of
trustees.

11.—(1) The Council may take into their employment or service all or any of the officers or servants employed by the trustees at the date of transfer.

(2) Any officer or servant of the trustees who shall by virtue of this Act or of anything done in pursuance or in consequence

thereof suffer any such direct pecuniary loss as is mentioned in section 120 of the Local Government Act, 1888 shall be deemed to be a person entitled to compensation within the meaning of that section and the provisions of that section shall with the necessary modifications and with the substitution of the Local Government Board for the Treasury apply accordingly. A.D. 1905.

(3) Such compensation may at the option of the Council be by way of annuity or by payment of a sum in gross and shall be paid by the Council (if a sum in gross) out of moneys borrowed under this Act and if an annuity out of the revenue of the harbour undertaking and subject as aforesaid out of the district fund and general district rates of the district.

12. The Council may themselves or by the clerk or other officer duly authorised in that behalf at any time before the date of transfer inspect and take copies of or extracts from all or any of the minute and other books kept by the trustees in relation to the harbour undertaking and the trustees shall at all times afford all reasonable facilities for the purpose. Power to inspect books before transfer.

13. The agreement between the Council and Sir Charles William Strickland Baronet which is set forth in the schedule to this Act is hereby so far as it relates to the hereditaments and rights of the vendor specified in the first part of the schedule to the said agreement confirmed and made binding on the parties thereto and on all persons claiming under the indenture of the seventh day of September one thousand eight hundred and sixty-eight therein referred to. Confirmation of agreement with Sir C. Strickland as to harbour undertaking &c.

14.—(1) The Council from time to time may appoint a harbour committee consisting of not less than eighteen persons of whom two-thirds at least must and the remainder may or may not be members of the Council for the execution of such of the purposes of the Harbour Acts and Orders and of this Act so far as it relates to the harbour undertaking (other than the borrowing of money or making of rates) as in the opinion of the Council would be better regulated and managed by means of such committee and the Council may make regulations for the retirement rotation and appointment or election of members of the committee. Appointment of harbour committee by Council.

(2) The quorum of any such committee shall be such as the Council direct.

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(3) The Council may from time to time make any such regulations as they think fit for the guidance of any such committee and the acts of every such committee shall be submitted to the Council for their approval.

(4) The chairman at any meeting of any such committee shall have a second or casting vote.

Continuance
of bylaws.

15. All byelaws and regulations made by the trustees and in force at the date of transfer shall continue in force subject to the power of the Council to alter vary or repeal the same under the provisions of the Harbours Docks and Piers Clauses Act 1847.

Application
of revenue
of harbour
undertaking.

16. All moneys in the nature of revenue received by the Council in respect of the harbour undertaking shall be applied by them as follows:—

- (1) In payment of the working and establishment expenses and cost of maintenance of the harbour undertaking :
- (2) In payment of the interest or dividends on any mortgages or other securities granted and issued in respect of money borrowed for the purposes of the harbour undertaking :
- (3) In payment of any sums required to be paid for any instalments or contributions to a sinking fund in respect of moneys borrowed for the purposes of the harbour undertaking :
- (4) In repayment to the district fund of the district of any sums paid out of that fund or the general district rates of the district for the purposes of the harbour :
- (5) In providing (if the Council think fit) a reserve fund by setting aside from time to time such moneys as they think reasonable and investing the same and the income thereof in statutory securities until the fund so formed amounts to a sum of five thousand pounds which fund shall be applicable to answer any deficiency at any time happening in the revenue of the Council from the harbour undertaking or to meet any extraordinary claim demand or liability at any time arising against the Council in respect thereof and so that if the fund is at any time reduced it may thereafter be again restored and so from time to time as often as such reduction happens.

Any surplus revenue from the harbour undertaking in any year and the income of the reserve fund so long as that fund amounts to five thousand pounds shall be applied to the improvement of the harbour undertaking. A.D. 1905.

17. If in any year the revenue of the harbour undertaking proves insufficient to meet the payments specified in paragraphs (1) (2) and (3) of the last preceding section the deficiency shall be made up out of the district fund and general district rates of the district. Provision for deficiency of revenue of harbour undertaking.

PART III.

MARKET SLAUGHTER-HOUSES &c.

18. The agreement between the Council and Sir Charles William Strickland Baronet which is set forth in the schedule to this Act is hereby so far as it relates to the market rights and the hereditaments of the vendor and other matters specified in the second part of the schedule to the said agreement confirmed and made binding on the parties thereto and on all persons claiming under the indenture of the seventh day of September one thousand eight hundred and sixty-eight therein referred to. Confirmation of agreement with Sir C. Strickland as to market rights &c.

19. From and after the completion of the purchase under this Act by the Council of the market rights and the hereditaments of the vendor specified in the second part of the schedule to the said agreement all the powers rights and privileges and obligations conferred or imposed on the market owner by the Whitby Market Act 1872 shall vest in and be exerciseable and performed by the Council and all the provisions of that Act shall (subject to the provisions of this Act) continue to be in force within the district so far as they were in force before the completion of the purchase as if the Council were therein named as the market owner; Transfer of powers &c. under Whitby Market Act 1872.

Provided that all moneys received from any rents or tolls in or in respect of the markets shall be carried to the district fund of the district and all expenses incurred by the Council in connection with the markets shall be paid out of that fund.

20. From and after the completion of the purchase under this Act by the Council of the market rights and property of Market undertaking to be subject

A.D. 1905. the vendor the market undertaking shall be held and managed
to Public Health Act 1875. by the Council with the powers and subject to the provisions
with respect to markets of the Public Health Act 1875.

Amendment of s. 9 of Whitby Market Act 1872. **21.** Section 9 of the Whitby Market Act 1872 shall be read and have effect as if the words "New Year's Day or Bank Holiday" were inserted after the words "Christmas Day" and the words "a general holiday or" were inserted after the words "appointed as" in the said section.

Remedy for default of tenants to pay rent &c. **22.** If any tenant shall not after any toll rent or charge has become due and payable to the Council in respect of any stand stall shed pen or place in any market and after demand has subsequently been made therefor pay the same within three days of the demand the Council may enter upon and take possession of such stand stall shed pen or place and re-let the same without prejudice to any other remedy for the recovery of such rent or toll.

As to slaughter-houses. **23.**—(1) After any two justices of the peace acting for or within the district shall on the application of the Council have certified under their hands that the Council have provided adequate slaughter-houses and after the expiration of two months from the date of publication by the Council in two local newspapers circulating in the district of notice to that effect no person shall slaughter any cattle horse sheep or pig within the district in any other slaughter-house :

Provided that as regards premises occupied by persons holding licences to slaughter cattle horses sheep or pigs such prohibition shall not take effect until the end of the period for which the licence has been granted unless the Council shall have made compensation to the licensee in respect of the unexpired portion of such period. If any person acts in contravention of this section he shall be liable for each offence to a penalty not exceeding five pounds.

(2) The Council shall make compensation to the owner and occupier of any registered slaughter-house within the district who shall be injuriously affected by the exercise of the prohibition in this section contained.

Prohibition of blowing or inflating carcases. **24.** It shall not be lawful to blow or inflate the carcase or any part of the carcase of any animal intended for the food

of man or to expose or deposit for sale within the district any carcass so blown or inflated or any part thereof Any person who shall offend against this enactment shall for every such offence be liable to a penalty not exceeding five pounds. A.D. 1905.

PART IV.

LANDS.

25. The Council may enter on take and use for the benefit of the district all or any of the lands following (that is to say) :— Power to acquire foreshore lands.

All that the foreshore and sands in the township and parish of Ruswarp bounded on the north by mean low water-mark on the south by the adjacent cliffs on the east by the West Pier and on the west by Uppang Beck.

26. The powers of the Council for the compulsory purchase of lands under this Act shall not be exercised after the expiration of three years from the passing of this Act. Period for compulsory purchase of lands.

27. Nothing in this Act shall prejudice or affect any rights of access now possessed by Sir Charles Elliot Baronet for himself his successors in title his tenants and others on to and over the lands acquired from him under this Act and it shall be lawful for the said Sir Charles Elliot or his successors in title to erect and maintain on a site to be reasonably approved by the Council on the lands acquired from him as aforesaid the necessary works and conveniences for the purposes of a cliff railway such works and conveniences to be reasonably approved by the Council Any difference arising under this section shall be determined by arbitration under the Arbitration Act 1889. For protection of Sir C. Elliot,

28. The Council may acquire by agreement all or any of the following lands (that is to say) :— Acquisition of lands by agreement.

All that piece and parcel of land situate in the townships and parishes of Helredale Hawsker-cum-Stainsacre Ruswarp Sneaton and Whitby and being the bed of the River Esk and estuary and harbour and the foreshore on both sides thereof lying between the mouth of the harbour and the county road bridge over the River Esk at Ruswarp :

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Such of the soil and freehold of the streets and highways in the township and parish of Whitby and the Fishburn Park Ward and the West Cliff Ward in the township or parish of Ruswarp as is now vested in Sir Charles William Strickland Baronet.

Council not to acquire fishing or netting rights in River Esk.

29. Nothing contained in this Act shall empower the Council to acquire the fishery or exercise any rights of fishing or netting in the River Esk or the estuary thereof.

Power to retain sell &c. lands.

30. Notwithstanding anything in the Lands Clauses Acts or in any other Act or Acts to the contrary the Council may retain hold and use for such time as they may think fit and may sell lease exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands acquired by them under this Act or any interest therein and may sell exchange or dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

Proceeds of sale of surplus lands.

31. So long as any lands remain to be acquired by the Council under the authority of this Act they may so far as they consider necessary apply any capital moneys received by them on re-sale or exchange or by way of fine or premium on the grant or renewal of leases as aforesaid in the purchase of lands so remaining to be acquired but as to any capital moneys so received and not so applied the Council shall apply the same in or towards the extinguishment of any loan raised by them under the powers of this Act and such application shall be in addition to and not in substitution for any other mode of extinguishment by this Act provided except to such extent and upon such terms as may be approved by the Local Government Board Provided that the amount to be applied in the purchase of land under this section shall not exceed the amount for the time being unexhausted of the borrowing powers conferred by this Act for the acquisition of such lands Provided further

that the borrowing powers by this Act authorised for the acquisition of such lands shall be reduced to the extent of the amount applied in the purchase of lands under the provisions of this section.

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PART V.

RECREATION GROUNDS REGULATION OF SEASHORE &c.

32. The Council may in any public park garden or recreation ground belonging to them or under their control and management erect maintain furnish and equip and may remove refreshment and reading rooms pavilions and other buildings and conveniences which may be required or convenient for the purposes of such park garden recreation ground and of the public resorting thereto.

Power to erect buildings &c.

Notwithstanding anything in this section contained it shall not be lawful for the Council to exercise any of the powers of this section on any lands acquired under this Act from Sir Charles Elliot Baronet or on the foreshore between Lector Nab and the mouth of the River Esk save with the consent in writing of the said Sir Charles Elliot or his successors in title to the said lands.

33. The Council may provide swings and other apparatus for games and recreation in any public park garden or recreation ground within the district and may charge for the use thereof and they may make regulations with respect to the use and the payment for the use of such swings and other apparatus.

Power to provide apparatus for games.

34. The Council may pay or contribute out of the general district rates towards the payment of a public band or bands of music to perform in any public park garden recreation ground or other place of public resort within the district belonging to or held by the Council and the Council may inclose an area within which such bands shall play and may make byelaws for regulating the time and place for the playing of the bands and the payment to be made for admission within the said inclosure and for securing good and orderly conduct during the playing of the band Provided that the amount of such payment or contribution by the Council for or towards such band or bands shall not in any one year exceed an amount which

Public bands.

A.D. 1905. — would be produced by a rate of one halfpenny in the pound on the assessable value of the district to the general district rate.

Seats or chairs may be provided.

35. The Council may place or authorise any person or persons to place seats or chairs for the use of the public on the seashore or in any street park recreation ground pleasure ground or other public place and may if they think fit charge or allow such person or persons to charge reasonable sums for the use of the chairs.

Power to set apart and close pleasure grounds for games.

36. The Council may set apart any portion of any park garden or pleasure ground for the time being belonging to or held by them for cricket bowls football tennis and other games and for the drill of volunteers yeomanry or cadets or of any military or police force or for the purposes of the delivery of speeches or the holding of meetings of public or local interest and may make an agreement with any club or association by which such portion may be secured to the club or association but so that the same shall be open to the public when not in use for such games or drill or other purposes and the Council may make byelaws for regulating the use of the portions of the park garden or pleasure ground so set apart.

Byelaws as to seashore.

37. The Council may make and enforce byelaws for the prevention of danger obstruction nuisance or annoyance to persons using the seashore and the sea-wall and esplanade adjoining thereto and in particular may by such byelaws—

- (1) Regulate the erection or placing on the seashore or on such part or parts thereof as may be prescribed by such byelaws of any booths tents sheds stands and stalls (whether fixed or movable) or vehicles for the sale or exposure of any article or thing or any shows exhibitions performances swings roundabouts or other erections vans photographic carts or other vehicles whether drawn or propelled by animals or persons and the playing of any games on the seashore and generally regulate the user of the seashore for such purposes as shall be prescribed by such byelaws;
- (2) Regulate the selling and hawking of any article commodity or thing on the seashore;
- (3) Regulate the user of the seashore for riding and driving;

- (4) Provide for the preservation of order and good conduct among persons frequenting the seashore and the seawall and esplanade adjoining thereto. A.D. 1905.

38. Every part of the seashore within the district shall for the purposes of the Vagrancy Acts be deemed to be a public place and shall be deemed to be a street for the purposes of section 29 of the Town Police Clauses Act 1847 and also for the purposes of so much of section 28 of that Act as relates to the following offences :—

Sands and seashore to be deemed a street for certain purposes.

Every person who slaughters or dresses any cattle except in the case of any cattle overdriven which may have met with any accident and which for the public safety or other reasonable cause ought to be killed on the spot ;

Every common prostitute or night-walker loitering and importuning passengers for the purpose of prostitution ;

Every person who wilfully and indecently exposes his person ;

Every person who publicly offers for sale or distribution or exhibits to public view any profane indecent or obscene book paper print drawing painting or representation or sings any profane or obscene song or ballad or uses any profane or obscene language ;

Every person who wantonly discharges any firearm or discharges any missile or makes any bonfire ;

Every person who throws or lays any dirt litter or ashes or night-soil or any carrion fish offal or rubbish on any street.

39. The Council may make byelaws—

Byelaws as to bathing.

(1) For appointing and limiting the places on the seashore from which persons of each sex may bathe without using a bathing machine or tent and for prohibiting the use of any other place on the seashore for bathing without using a bathing machine or tent ;

(2) For the preservation of decency and order at public bathing places on the seashore and for appointing and limiting the places on the seashore from which persons of the male and female sex may

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bathe together and from which they may bathe separately;

(3) For regulating the hours during which bathing may take place from public bathing places on the sea-shore and for prohibiting the use of such places except during the hours so fixed; and

(4) For prescribing the use of decent and sufficient bathing garments.

For protection of bathers.

40. The Council may require the owner or lessee of any bathing machine to provide or employ boats boatmen and attendants and to provide life-saving apparatus for the purpose of ensuring the safety of bathers and may prescribe the qualification of such boatmen and attendants and the Council may employ and pay boatmen for the purpose of protecting persons whilst bathing.

Regulation of tents and huts for bathing or shelter.

41. Section 171 of the Public Health Act 1875 and section 69 of the Town Police Clauses Act 1847 incorporated thereby shall so far as applicable extend and apply to tents and huts for bathing or shelter within the district.

Power to license pleasure boats.

42.—(1) The Council may grant upon such terms and conditions as they may think fit licences for pleasure boats and pleasure vessels to be let for hire or to be used for carrying passengers for hire and to the boatmen or persons assisting in the charge or navigation of such boats and vessels and may charge annual fees for such licences for a boat or vessel a fee not exceeding the sum of five shillings and for a boatman or other person a fee not exceeding the sum of one shilling.

(2) Any such licence may be granted for such period as the Council may think fit and may be suspended or revoked or endorsed by the Council whenever they shall deem such suspension or revocation or endorsement to be necessary or desirable in the interests of the public. Provided that the existence of the power to suspend revoke or endorse the licence shall be plainly set forth in the licence itself.

(3) No person shall let for hire any pleasure boat or pleasure vessel not so licensed nor shall any person carry or permit to be carried passengers for hire in any pleasure boat or vessel not so licensed.

(4) No person shall act as boatman or assist in the charge or navigation of any such boat or vessel when let for hire or when carrying passengers for hire who is not licensed by the Council as aforesaid. A.D. 1905.

(5) A licence under this section shall not be required for any boat or vessel duly licensed by or under any regulations of the Board of Trade or for any boatman or person assisting in the charge or navigation of such boat or vessel.

(6) No person shall carry or permit to be carried in any pleasure boat or pleasure vessel a greater number of passengers for hire than shall be specified in the licence applying to such boat or vessel and every owner of any such boat or vessel shall before permitting the same to be used for carrying passengers for hire paint or cause to be painted in letters and figures not less than one inch in height and three-quarters of an inch in breadth on a conspicuous part of the said boat or vessel his own name and also the number of persons which it is licensed to carry in the form "Licensed to carry persons."

(7) Every person who shall act in contravention of the provisions of this section shall for each offence be liable to a penalty not exceeding forty shillings.

(8) Any person deeming himself aggrieved by the granting withholding suspension revocation or endorsement of any licence under the provisions of this section may appeal to a petty sessional court held after the expiration of two clear days after such grant withholding suspension revocation or endorsement Provided that the person so aggrieved shall give twenty-four hours written notice of such appeal and the ground thereof to the clerk and the court shall have power to make such order as they see fit and to award costs such costs to be recoverable summarily as a civil debt.

43. The Council may make byelaws for securing the safe custody and re-delivery of any property accidentally left in pleasure boats and pleasure vessels let for hire or used for carrying passengers for hire and fixing the charges to be made in respect thereof. Byelaws for securing safe custody of property left in pleasure boats &c.

44. Any person appointed by the Council for that purpose may from time to time examine all pleasure boats and vessels plying for hire within the district and shall see that the laws Powers of inspectors of pleasure boats.

A.D. 1905. — and byelaws relating to such boats and vessels are duly observed
If any proprietor boatman letter of boats or other person shall obstruct or hinder any such person appointed as aforesaid in the execution of his duties he shall be liable to a penalty not exceeding twenty shillings.

Power to
appoint
officers.

45. The Council may appoint officers for securing the observance of this Part of this Act and of the byelaws and regulations made thereunder and may procure such officers to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant.

PART VI.

LICENCES TO PORTERS.

Licences to
porters &c.

46. The Council may from time to time grant to any person whom they may think fit a licence to carry on the calling of a luggage porter light porter public messenger or commissionaire and may charge a fee of one shilling for any such licence.

The Council may from time to time make byelaws for regulating the conduct of any persons so licensed and for fixing the charges to be made by them.

Every such licence may be granted for a year or for any less period according as the Council may think fit and may be suspended or revoked or endorsed by the Council for a breach of such byelaws or whenever they shall deem such suspension or revocation or endorsement to be necessary or desirable in the interests of the public. Provided that the existence of this power to suspend or revoke or endorse a licence shall be plainly set forth in the licence itself.

Every such licence whensoever issued shall expire on the thirty-first day of March next following the date of its issue and may contain conditions as to the badge which the holder of any such licence shall wear.

If any person while unlicensed represents himself to be licensed or wears any badge for the purpose of representing himself as licensed to carry on any of the callings specified in this section he shall be liable to a penalty not exceeding twenty shillings.

PART VII.

A.D. 1905.

ADVERTISEMENTS.

47.—(1) Every hoarding or similar structure in or abutting on or adjoining any street or so near to any street that it might if not supported fall thereon shall be securely erected and maintained.

As to hoardings and other structures used for advertising purposes.

(2) It shall not be lawful after the passing of this Act to erect wholly or partly for advertising purposes any such hoarding or similar structure to a greater height than twelve feet above the level of such street without the consent of the Council and such consent may be given subject to such conditions as to the submission of a plan and elevation and as to the maintenance of such hoarding or similar structure as the Council may determine.

(3) The owner or other person using any hoarding wall or other structure for advertising purposes whether erected before or after the passing of this Act shall at all times hereafter keep and maintain the same in proper and safe repair and condition and in the event of any paper affixed for advertising purposes to such hoarding wall or other structure falling off or becoming detached shall forthwith remove and clear away such paper.

(4) Any person who acts in contravention of any of the provisions of this section or who violates any conditions made or the terms of any consent given in pursuance of such provisions shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(5) Any consent or condition given or made under this section may be under the hand of the clerk or surveyor.

(6) Any person aggrieved by the refusal of the Council to grant such consent or by the conditions attached to such consent may appeal to a court of summary jurisdiction after the expiration of two clear days after the decision of the Council is notified to him in writing under the hand of the clerk provided he gives twenty-four hours written notice of such appeal and the grounds thereof to the clerk and the court shall have power to make such order as the court may think fit and to award costs such costs to be recoverable as a civil debt.

48.—(1) It shall not be lawful to erect or fix to upon or in connection with any building or erection any sky-sign and it

Sky-signs.

A. D. 1905. shall not be lawful to retain any existing sky-sign so erected or fixed for a longer period than three years after the passing of this Act nor during that period except with the licence of the Council and in the event of such licence being granted then only for such period not exceeding three years from the passing of this Act and under and subject to such terms and conditions as shall be therein prescribed :

Provided that in any of the following cases a licence of the Council under this subsection shall become void namely :—

- (i) If any addition to any sky-sign be made except for the purpose of making it secure under the direction of the surveyor ;
- (ii) If any change be made in the sky-sign or any part thereof ;
- (iii) If the sky-sign or any part thereof fall either through accident decay or any other cause ;
- (iv) If any addition or alteration be made to or in the house building or structure on over or to which any sky-sign is placed or attached if such addition or alteration involves the disturbance of the sky-sign or any part thereof ; or
- (v) If the house building or structure over on or to which the sky-sign is placed or attached become unoccupied or be demolished or destroyed :

Provided also that if any sky-sign be erected or retained contrary to the provisions of this Act or after the licence for the erection maintenance or retention thereof for any period shall have expired or become void it shall be lawful for the Council to take proceedings for the taking down and removal of the sky-sign in the same manner and with the same consequence as to the recovery of expenses and otherwise in all respects as if it were an obstruction within the meaning of section 69 of the Towns Improvement Clauses Act 1847.

(2) Any person acting in contravention of any of the provisions of this section or of the terms and conditions (if any) of any approval licence or consent under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(3) For the purposes of this section "sky-sign" means any word letter model sign device or representation in the nature of an advertisement announcement or direction supported on or attached to any post pole standard framework or other support wholly or in part upon over or above any house building or structure which or any part of which sky-sign shall be visible against the sky from some point in any street or public way and includes all and every part of any such post pole standard framework or other support. The expression "sky-sign" shall also include any balloon parachute or other similar device employed wholly or in part for the purposes of any advertisement or announcement on over or above any house building structure or erection of any kind or on or over any street or public way but shall not include—(i) Any flagstaff pole vane or weathercock unless adapted or used wholly or in part for the purpose of any advertisement or announcement (ii) Any sign or any board frame or other contrivance securely fixed to or on the top of the wall or parapet of any building or on the cornice or blocking course of any wall or to the ridge of a roof. Provided that such board frame or other contrivance be of one continuous face and not open work and do not extend in height more than three feet above any part of the wall or parapet or ridge to against or on which it is fixed or supported (iii) Any word letter model sign device or representation as aforesaid relating exclusively to the business of a railway company and placed wholly upon or over any railway railway station yard platform or station approach belonging to a railway company and so placed that it cannot fall into any street or public place.

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PART VIII.

POLICE PROVISIONS.

49. Every person who shall on Sunday in any street within the district cry or call out for sale any newspaper journal or serial or advertise by any cry or call any newspaper journal or serial or ring any bell or use any horn whistle or noisy instrument or create any noise whatsoever or howsoever for the purpose of selling any newspaper journal or serial or attract or attempt to attract the attention of any person or persons by means of any noise whatsoever whether vocal or otherwise for the purposes aforesaid or any of them shall for every such offence be liable to a penalty not exceeding forty shillings.

Street cries.

A.D. 1905.

PART IX.

FINANCIAL.

Power to
borrow for
harbour pur-
poses.

50. Sections 45 to 53 of the Whitby Port and Harbour Act 1879 are hereby repealed and the Council may from time to time subject to the approval of the Board of Trade borrow at interest for any of the purposes mentioned in section 36 of the said Act to which capital is properly applicable and also for payment of any sum in gross payable by the Council to any officer or servant of the trustees such sums as may be requisite.

The Council may also borrow for the purchase of the manorial rights of Sir Charles William Strickland Baronet in respect of the port and harbour of Whitby and for the purchase of the lands described in paragraph (B) of the second part of the schedule to the agreement set forth in the schedule to this Act the sum of two thousand four hundred pounds.

Any sums to be so borrowed may be raised by the Council on the security of the revenue of the harbour undertaking and of the district fund and general district rates of the district and the periods for repayment of any sums so borrowed shall be such as the Board of Trade may prescribe.

Power to
borrow for
other pur-
poses.

51. The Council may from time to time borrow at interest for the following purposes the following sums on the following securities (that is to say):—

(A) For the purchase of market rights and property described in the first paragraph of the second part of the schedule to the agreement set forth in the schedule to this Act on the security of the revenue of the market undertaking and of the district fund and of the general district rates of the district the sum of four thousand seven hundred pounds:

(B) For the purchase of the lands described in the first part of the schedule to the agreement set forth in the schedule to this Act on the security of the district fund and general district rates of the district the sum of four hundred pounds:

(C) For the payment of the costs charges and expenses of and incidental to preparing and obtaining this Act

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the sums required for the purpose on the security of the district fund and general district rates of the district :

And with the consent of the Local Government Board such further moneys as may be required for any other purposes of this Act.

In calculating the sums which the Council may borrow under the provisions of any other enactment any sums which they may borrow under this Act shall not be reckoned and the powers of the Council as to borrowing and re-borrowing under this Act shall not be restricted by any of the provisions of the Public Health Acts.

52. The Council may raise all or any moneys which they are authorised to borrow under this Act by mortgage or by the issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another. Provided that the provisions of this Act whereof the marginal note is "Sinking fund" shall apply in lieu of the provisions of section 15 of the Local Loans Act 1875.

Mode of raising money.

53. The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say) :—

Application of provisions of Public Health Act as to mortgages.

Section 236 (Form of mortgage)

Section 237 (Register of mortgages)

Section 238 (Transfer of mortgages).

54. The Council shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of these methods and partly by another or others of them.

Mode of payment of money borrowed.

55.—(1) If the Council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Act such sinking fund shall be formed and maintained either—

Sinking fund.

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed. A sinking fund so formed

A.D. 1905.

is herein-after called a "non-accumulating sinking fund"; or

- (b) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed. A sinking fund so formed is herein-after called an "accumulating sinking fund."

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in statutory securities the Council being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Council towards the equal annual payments to the fund.

(4) The Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed. Provided that in the case of an accumulating sinking fund the Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Council :

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Act shall be paid by the Council in addition to the payments provided for by this Act.

(7) If it appears to the Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose. Provided always that if it appears to the Local Government Board that any such increase is necessary the Council shall increase the payments to such extent as the Board may direct.

(8) If the Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Act together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Council may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Local Government Board be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Local Government Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Council may with the consent of that Board discontinue the annual payments to such sinking fund until the Local Government Board shall otherwise direct.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of

A.D. 1905. — which it was formed shall be applied to such purpose as the Council with the consent of the Local Government Board may determine.

Protection of
lender from
inquiry.

56. A person lending money to the Council under this Act shall not be bound to inquire as to the observance by the Council of any provisions of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof.

Council not
to regard
trusts.

57. The Council shall not be bound to see to the execution of any trust whether expressed implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages shall be sufficient discharge to the Council in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Council have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered in their register.

Appoint-
ment of
receiver.

58. The mortgagees of the Council by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five hundred pounds in the whole. The application for the appointment of a receiver shall be made to the High Court.

Power to re-
borrow.

59. If the Council pay off any moneys borrowed by them under this Act otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed moneys they may from time to time re-borrow the same but all moneys so re-borrowed shall be repaid within the period prescribed for repayment of the original loan and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Council with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such re-borrowing.

60.—(1) The clerk shall within twenty-one days after the thirty-first day of March in each year if during the twelve months next preceding the said thirty-first day of March any sum is required to be paid as an instalment or annual payment or to be appropriated or to be paid to a sinking fund in pursuance of the provisions of this Act or in respect of any money raised thereunder and at any other time when the Local Government Board may require such a return to be made transmit to the Local Government Board a return in such form as may be prescribed by that Board and if required by that Board verified by statutory declaration of such clerk showing for the year next preceding the making of such return or for such other period as the Board may prescribe the amounts which have been paid as instalments or annual payments and the amounts which have been appropriated and the amounts which have been paid to or invested or applied for the purpose of the sinking fund and the description of the securities upon which any investment has been made and the purposes to which any portion of the sinking fund or investment or of the sums accumulated by way of compound interest has been applied during the same period and the total amount (if any) remaining invested at the end of the year and in the event of his failing to make such return the clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

(2) If it appears to the Local Government Board by that return or otherwise that the Council have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by this Act or by the Local Government Board in virtue thereof to be paid appropriated or set apart) or have applied any portion of any sinking fund to any purposes other than those authorised the Local Government Board may by order direct that the sum in such order mentioned not exceeding double the amount in respect of which default has been made shall be paid or applied as in such order mentioned and any such order shall be enforceable

A.D. 1905.

Annual re-
turn to Local
Government
Board.

A.D. 1905. by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

Repayment
of borrowed
moneys.

61. The Council shall pay off all moneys borrowed under this Act within the respective periods (which shall be the prescribed periods for the purposes of the section of this Act whereof the marginal note is "Sinking fund") following (that is to say):—

As to moneys borrowed for the purposes (A) and (B) mentioned in the section of this Act whereof the marginal note is "Power to borrow for other purposes" within such periods as may be sanctioned by the Local Government Board;

As to moneys borrowed for the purpose (C) in the said section within five years from the passing of this Act;

As to any other moneys borrowed with the approval of the Local Government Board or the Board of Trade as the case may be within such periods as may be sanctioned by such Boards respectively.

Separate
accounts and
audit in
respect of
harbour
undertaking.

62. The Council shall keep separate accounts of their receipts and expenditure from or in respect of the harbour undertaking on capital and revenue account and where any expenses are incurred in respect of the harbour undertaking and any other account jointly they shall apportion such expenses between the harbour undertaking and such other account and the harbour account shall be audited in each year in the same manner as the other accounts of the Council are audited and subject to the provisions relating thereto.

Expenses of
execution of
Act.

63. All expenses incurred by the Council in the execution of this Act and not otherwise provided for may be defrayed by the Council out of the district fund and general district rates of the district.

PART X.

MISCELLANEOUS.

General pro-
visions as to
byelaws.

64.—(1) All the provisions with respect to byelaws contained in sections 182 to 186 of the Public Health Act 1875 (except so much thereof as relates to byelaws of a rural sanitary authority) shall apply to all byelaws made by the Council under

the powers of this Act other than byelaws made under the provisions of the Harbours Docks and Piers Clauses Act 1847 :

A.D. 1905.

Provided that no byelaws affecting the foreshore below high water mark shall come into operation until the consent of the Board of Trade has been obtained thereto.

(2) All byelaws made under the said Act of 1847 shall require to be confirmed by the Board of Trade and shall require no other confirmation :

Provided also that the Secretary of State shall be the confirming authority for byelaws made under the section of this Act whereof the marginal note is "Byelaws as to seashore."

65. All informations and complaints under and for the breach of any of the provisions of this Act or of any byelaws made thereunder or of the Town Police Clauses Acts 1847 and 1889 or of the Towns Improvement Clauses Act 1847 as incorporated with the Public Health Act 1875 may be laid and made by any officer of the Council duly authorised in that behalf or by the clerk.

Informations
by whom to
be laid.

66. In the case of any notice or demand under this Act requiring authentication by the Council the signature of the clerk or other duly authorised officer of the Council shall be sufficient authentication.

Authentica-
tion and
service of
notices &c.

Notices orders and any other documents required or authorised to be served under this Act may be served in the same manner as notices under the Public Health Act 1875 are by section 267 of that Act authorised to be served. Provided that in the case of any company any such notice or document shall be delivered or sent by post addressed to the secretary of the company at their principal office or place of business.

67. All offences against this Act and all penalties forfeitures costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner. Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

Recovery of
penalties.

68. All penalties recoverable by the Council or any officer of the Council on their behalf under this Act or any byelaw

Penalties to
be paid over
to treasurer.

A.D. 1905. thereunder shall be paid to the treasurer of the Council and carried by him to the credit of the district fund of the district or to such other fund as the Council direct.

As to appeal. **69.** Any person deeming himself aggrieved by any order judgment determination or requirement or the withholding of any certificate licence or consent or approval of or by the Council or of or by any officer of the Council or by any conviction or order made by a petty sessional court or court of summary jurisdiction under any provision of this Act may if no other mode of appeal is provided by this Act appeal to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts and in regard to any such order made by a petty sessional court or court of summary jurisdiction the Council may in like manner appeal.

Damages and charges to be settled by justices. **70.** Where any damages expenses costs or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses costs or charges in case of dispute respecting the same may be settled and determined by the court before whom any offender is convicted.

Compensation to be determined under Public Health Acts. **71.** When any compensation costs damages or expenses is or are by this Act directed to be paid and the method for determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided for by the Public Health Acts.

Saving for indictments. **72.** Nothing in this Act shall protect any person from being proceeded against by way of indictment in respect of any matter by this Act made punishable on summary proceedings or shall relieve any person in respect of any such matter from any penal or other consequence to which he would have been liable if such matter had not been made punishable by this Act Provided that nothing in this Act shall make a person liable to be punished more than once for the same offence.

Powers of Act cumulative. **73.** All powers rights and remedies given to the Council by this Act shall (except where otherwise expressly provided) be deemed to be in addition to and not in derogation of any other powers rights or remedies conferred on them or on any committee appointed by them by Act of Parliament charter law or custom and the Council or such committee as the case may

be may exercise such other powers and be entitled to such other rights and remedies as if this Act had not been passed. Provided that no person shall incur more than one penalty (other than a daily penalty for a continuing offence) for the commission of the same offence. A.D. 1905.

74. Nothing in this Act or in the agreement set forth in the schedule to this Act or in any conveyance to be made for the purpose of carrying the same into effect shall take away lessen prejudice or alter any franchise estate right interest power authority or privilege of or belonging to the said Sir Charles William Strickland Baronet or other the lord of the manor of Whitby and liberty of Whitby Strand except to the extent to which the same shall thereby become vested in the Council. Saving rights of lord of manor of Whitby.

75. Nothing in this Act shall affect prejudicially any estate right power privilege or exemption of the King's most Excellent Majesty and in particular nothing herein contained shall authorise the Council to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose which consent such Commissioners and such Board are hereby respectively authorised to give. Saving rights of Crown.

76. The costs charges and expenses preliminary to and of and incidental to preparing this Act (including the costs incurred by the Council in or with the object of complying with the provisions of the Borough Funds Acts 1872 and 1903 with respect to the Bill for this Act) as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the district fund and general district rates of the district or out of moneys borrowed by them under the authority of this Act. Costs of Act.

A.D. 1905.

The **SCHEDULE** referred to in the foregoing Act.

ARTICLES OF AGREEMENT made and entered into this twenty-third day of June in the year of our Lord one thousand nine hundred and five between SIR CHARLES WILLIAM STRICKLAND Baronet of Whitby Abbey and of Hildenley both in the county of York lord of the manor of Whitby and of the liberty of Whitby Strand in the same county herein-after called "the Vendor" of the one part and the WHITBY URBAN DISTRICT COUNCIL herein-after called "the Purchasers" of the other part.

WITNESS that for the considerations herein-after appearing it is hereby agreed by and between the parties hereto as follows (that is to say) :—

1. The Vendor shall sell and the Purchasers shall buy from him the hereditaments and rights specified in the first and second parts of the schedule hereto of which the Vendor is tenant for life except and subject as in the said schedule is set forth. The contract for the sale and purchase of the hereditaments specified in the first part of the schedule hereto shall be distinct from the contract for the sale and purchase of the hereditaments and rights specified in the second part of the schedule hereto. If for any reason it shall be impossible to carry one of the said contracts into effect the other shall remain in full force.

2. The prices shall be for the hereditaments specified in the first part of the said schedule the sum of four hundred pounds and for the hereditaments and rights specified in the second part of the same schedule the sum of seven thousand one hundred pounds.

3. The Vendor will within two calendar months after the Act of Parliament herein-after mentioned confirming this agreement shall have received the Royal Assent show a good title to the hereditaments and rights respectively specified in the schedule hereto except so far as this stipulation is qualified by the terms of the said schedule and by the following clauses. And will on payment of the purchase moneys respectively as herein-after mentioned convey or procure to be conveyed to the Purchasers by all necessary parties and free from all incumbrances the said hereditaments and rights respectively except and subject as in the said schedule set forth.

4. The Purchasers on such title being shown and such conveyance executed will accept the said conveyance and pay the purchase money on the second day of July one thousand nine hundred and six when the purchase shall be completed. And if from any cause whatever the purchase shall not be then completed the Purchasers shall pay interest from that date on the purchase moneys at the rate of four pounds per centum per annum until payment.

5. The title to the said hereditaments and rights shall commence with an indenture bearing date the seventh day of September one thousand eight hundred and sixty-eight and made between Sir George Cholmley Baronet of the first part the Vendor (then Charles William Strickland Esquire) of the second part and Sir Tatton Sykes Baronet and the Reverend Charles Hudson of the third part by virtue whereof the Vendor is tenant for life of certain settled estates which include the hereditaments and rights respectively specified in the schedule hereto And the said indenture shall be accepted as constituting a good root of title and the Purchasers shall not be entitled to ask for the production of or to investigate or make any objection whatever in respect of the earlier title notwithstanding the same or any party thereof may be stated or recited in some abstracted document or otherwise come to the knowledge of the Purchasers And the Purchasers shall assume for all purposes that the said hereditaments and rights respectively specified in the schedule hereto were or are in fact comprised in and form part of the estates conveyed and settled by the said indenture although such hereditaments and rights respectively may not be expressly named therein.

6. All documents of title shall be retained by the Vendor or other persons now holding the same but the Vendor shall give or procure to be given to the Purchasers the proper statutory acknowledgment of right to production and copies thereof.

7. If the Purchasers shall insist on any objection or requisition in respect of the title to the said hereditaments and rights respectively or any of them which the Vendor shall be unable or unwilling to remove or comply with the Vendor shall be at liberty (notwithstanding any intermediate negotiation in respect thereof or any attempt to remove or comply with the same) by notice in writing to rescind this agreement either wholly or in relation only to the hereditaments specified in the first part of the said schedule or the hereditaments and rights specified in the second part thereof as the case may require and the Purchasers shall thereupon if requested return the abstract of title and any other papers in their possession belonging to the Vendor and they shall have no claim on the Vendor for costs or otherwise.

8. All the stipulations herein-before contained shall be considered as conditional upon some Act of Parliament incorporating the Lands Clauses Consolidation Act 1845 and authorising the Purchasers to buy the said hereditaments and rights respectively and confirming this agreement receiving the Royal Assent before the thirty-first day of December one thousand nine hundred and five And this agreement is subject to such alterations as Parliament may see fit to make therein.

In witness whereof the said Sir Charles William Strickland Baronet has hereunto set his hand and seal and the Whitby Urban District Council have caused their common seal to be hereunto affixed the day and year first above written.

A.D. 1905.

The SCHEDULE herein-before referred to.

FIRST PART.

The foreshore and sands in the township and parish of Ruswarp bounded on the north by mean low-water mark on the south by mean high-water mark on the east by the West Pier and on the west by Upgang Beck.

The sale of the hereditaments above-mentioned is made subject and without prejudice to the right of the Vendor to sea-weed wreck of the sea lagan flotsam and jetsam.

SECOND PART.

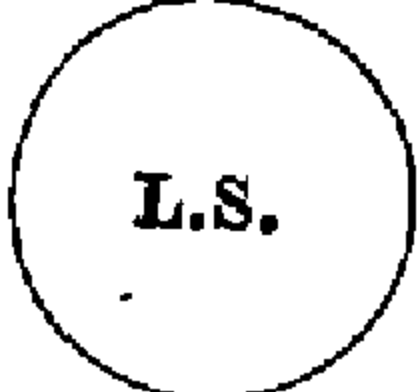
(A) The Market Hall or covered market in the town of Whitby aforesaid with the property of the Vendor on the south side thereof now used as a slaughter-house Also the Town Hall or Tollbooth in Whitby aforesaid and the open square or market place lying to the west of the same so far as such square or market place of right belongs to the Vendor And also the right of the Vendor to the tolls and profits which as owner of the market he is entitled to receive by virtue of "the Whitby Market Act 1872" within the limits of that Act And the franchise of market and all powers in relation thereto to which the Vendor is by charter or custom or by virtue of the said Act or otherwise entitled The dwelling-houses shops and buildings of the Vendor on the northern and southern sides of the said square or market place are not comprised in this agreement or sold to the Purchasers The property sold is sold subject to all liabilities and duties which the Vendor is now subject to or bound to perform as owner of such market as aforesaid or otherwise.

(B) The right of the Vendor as owner of the franchise of port to levy and take the accustomed tolls and dues within the port and harbour of Whitby aforesaid And also all that piece and parcel of land situate in the townships and parishes of Helredale Hawsker-cum-Stainsacre Ruswarp Sneaton and Whitby being the bed or soil of the River Esk and estuary and harbour and the foreshore on both sides thereof lying between the mouth of the harbour and the County Road Bridge over the River Esk at Ruswarp Such part of the last-mentioned piece and parcel of land as was by indenture bearing date the 30th day of September 1870 demised by the Vendor to Thomas Turnbull and all other lands formerly part of the bed or soil of the said River Esk harbour and foreshore but which have been prior to the date hereof conveyed or demised by the Vendor or his predecessors in title to any person or persons company or body are not comprised in this agreement or sold to the Purchasers and the sale is made subject and without prejudice to the right of the Vendor to the fishery in the water of Esk and to sea-weed wreck of the sea lagan flotsam and jetsam and all other rights and privileges to which the Vendor is entitled within the limits aforesaid save such as are expressly hereby contracted to be sold.

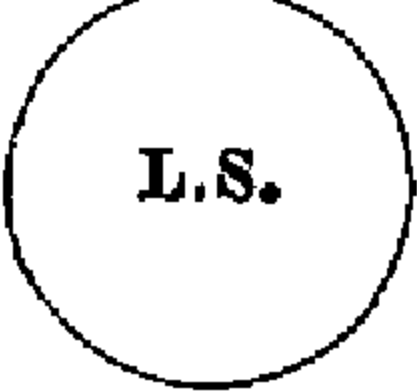
(C) Such of the soil and freehold of the streets and highways in the township and parish of Whitby and the Fishburn Park Ward and the West

- Cliff Ward in the township or parish of Ruswarp as is now vested in the lord of the manor of Whitby. A.D. 1905.

The conveyance shall contain an exception of the conduits mains pipes and works now used for the purpose of the Cholmley Waterworks and a reservation to the Vendor and all persons claiming under the said indenture of the 7th day of September 1868 of such rights if any as are now vested in the Vendor to lay down make maintain and repair the conduits mains pipes and other works in the streets highways and bridges within the urban district of Whitby for the purpose of carrying on or extending the Cholmley Waterworks.

Signed sealed and delivered by
the before-named Sir Charles
William Strickland Baronet in
the presence of } C. W. STRICKLAND. 

GEORGE BUCHANNAN
Solicitor Whitby.

The common seal of the urban district council of Whitby }
was hereunto affixed in the presence of } 

WM. SEATON GRAY
Solicitor Whitby
Clerk to the Council.

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ROWLAND BAILEY, Esq., M.V.O., I.S.C., the King's Printer of Acts of Parliament.

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