



ANNO DECIMO QUARTO

VICTORIÆ REGINÆ.

Cap. xxxvi.

An Act for supplying the Inhabitants of the Town
of *Whitby* and adjacent Places with Water.

[5th June 1851.]

WHEREAS the Town of *Whitby* and adjacent Places are not at present sufficiently supplied with Water, and the Construction of Waterworks for effecting such Supply would be of great local Benefit: And whereas the Parties herein-after named, and others, are willing to carry such Undertaking into execution; but the same cannot be effected without the Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

I. That the several Acts of Parliament following, (that is to say,) "The Companies Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Act, 1845," and "The Waterworks Clauses Act, 1847," shall be incorporated with and form Part of this Act.

Provisions of
8 & 9 Vict.
c. 16. and 18.
and 10 & 11
Vict. c. 17.
incorporated
with this Act.

II. That in citing this Act in other Acts of Parliament and in legal Instruments it shall be sufficient to use the Expression "The *Whitby* Waterworks Act, 1851."

Short Title.

[*Local.*]

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III. That

*The Whitby Waterworks Act, 1851.*Town Com-
missioners.7 W. 4. &
1 Vict. c. 10.Limits of
Act.Incorpora-
tion of
Company.Amount of
Capital.

Shares.

Calls.

III. That the Expression "Town Commissioners" in the said Waterworks Clauses Consolidation Act shall be construed to mean the Commissioners acting under and by virtue of an Act passed in the Seventh Year of the Reign of His Majesty King *William* the Fourth, intituled *An Act for better paving, cleansing, lighting, watching, and improving the Town of Whitby in the North Riding of the County of York.*

IV. That the Limits of this Act shall comprise and include the several Parishes and Places of the Town and Harbour of *Whitby*, and the Townships, Hamlets, or Places adjoining or near thereto, namely, *Whitby, Ruswarp, and Hawsker-cum-Stainsacre*, all in the Parish of *Whitby* in the North Riding of the County of *York*.

V. That *George Hudson, George Hudson the younger, Robert Walter Swinburne, John Lawson the younger, William Dobson, Henry Knaggs, Joseph Anderson, Ralph Hayes, Charles Hudson, Thomas Atkinson, William Nicholson, Ralph Horne, and George Parke*, and all other Persons and Corporations who have already subscribed or shall hereafter subscribe to the Undertaking by this Act authorized, and their Executors, Administrators, Successors, and Assigns respectively, shall be and they are hereby united and incorporated into a Company, for the Purpose of supplying with Water the Inhabitants, Buildings, and Lands within the Limits of this Act, and the Shipping resorting to the Harbour of *Whitby* aforesaid, and for that Purpose for constructing the Works hereby authorized according to the Provisions of the said recited Acts and of this Act, and for other Purposes herein and in the said recited Acts contained; and for such Purposes the Company aforesaid shall be and the same are hereby incorporated by and under the Name of "*The Whitby Waterworks Company*," and by that Name shall be a Body Corporate, with perpetual Succession and a Common Seal, and shall and may sue and be sued, and shall have Power to purchase and hold Lands for the Purposes of the Undertaking, subject to the Restrictions and Provisions herein and in the said incorporated Acts contained.

VI. That the Share Capital of the Company for the Purposes of this Act shall be Fourteen thousand five hundred Pounds.

VII. That the Number of Shares into which the said Capital shall be divided shall be Five hundred and eighty, and the Amount of each Share shall be Twenty-five Pounds.

VIII. That Five Pounds *per* Share shall be the greatest Amount of any One Call which the Company may make upon the Shareholders, and that Two Months at the least shall intervene between the making

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of any Two successive Calls, and the aggregate Amount of all Calls within any One Year shall not exceed Twenty Pounds on each Share.

IX. That it shall be lawful for the Company to borrow on Mortgage or Bond, for the Purposes of this Act, any Sums of Money not exceeding in the whole the Sum of Four thousand eight hundred Pounds; but no Part of such Sum shall be raised until the whole of the said Capital or Sum of Fourteen thousand five hundred Pounds shall have been subscribed for, and One Half thereof shall have been actually paid up.

Power to borrow Money on Mortgage.

X. That (subject to the Provisions herein contained for increasing or reducing the Number of Directors) the Number of Directors shall be Five, and the Qualification of a Director shall be the Possession in his own Right of Ten Shares at least in the Undertaking.

Number and Qualification of Directors.

XI. That it shall be lawful for the Company from Time to Time to increase the Number of Directors, and from Time to Time to reduce such Number; but the whole Number of Directors, after such an Increase or Reduction as aforesaid, shall not be greater than Nine nor less than Three.

Power to vary the Number of Directors.

XII. That the said *George Hudson, Charles Hudson, John Lawson* the younger, *William Dobson*, and *William Nicholson* shall be the First Directors of the Company.

First Directors.

XIII. That a Quorum of a Meeting of Directors shall be Three.

Quorum of Directors.

XIV. That with respect to the General Meetings of the Company the First General Meeting of the Shareholders of the Company shall be held within Three Months after the passing of this Act, and a General Meeting shall be held in the Month of *January* in each Year, and at such other stated Periods as shall be appointed for that Purpose by an Order of a General Meeting; and all Meetings, whether ordinary or extraordinary, shall be held within the said Town of *Whitby*; and the Quorum for every Meeting of the Company shall be such Number of Shareholders as shall hold in the aggregate not less than One thousand Pounds in the Capital of the Company.

Meetings of the Company.

XV. That the Shareholders shall possess One Vote in respect of each Share held by them respectively.

Scale of voting.

XVI. That the Company shall annually elect an Auditor for the Purpose of auditing the Accounts of the Company; and in case the Office of such Auditor shall, before such Accounts have been audited by him, be vacant by Death or from any other Cause, the Company shall from Time to Time appoint an Auditor to supply such Vacancy.

Appointment of Auditor.

XVII. That

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Qualification
of Auditor.

XVII. That no Person shall be capable of being an Auditor unless he be a Shareholder possessed in his own Right of One Share in the Undertaking.

Appointment
of Secretary.

XVIII. That the Clerk or Secretary of the Company shall from Time to Time be appointed by the Directors, and the Amount of his Salary or Remuneration shall be fixed and determined by them.

Power to
make Water-
works ac-
cording to
deposited
Plans.

XIX. That whereas Plans and Sections showing the Line and Levels of the Waterworks, and also a Book of Reference containing the Names of the Owners and Lessees, or reputed Owners and Lessees, and Occupiers of the Lands in or through which the same are intended to be made or to pass, or which are required for the Purposes of the Company, have been deposited with the Clerk of the Peace for the North Riding of the County of *York*, it shall be lawful for the Company, subject to the Provisions and Restrictions in this and the said incorporated Acts contained, to make and maintain the said Waterworks in the Line, on the Level, and upon the Lands delineated on the said Plans and Sections and described in the said Book of Reference, and to enter upon, take, and use, or to agree for and take a Lease of such of the Lands mentioned in the said Plans and Book of Reference as shall be necessary for that Purpose, and also to divert, impound, and take from the Stream called the River *Esk*, mentioned in the said Plans and Book of Reference, such Water as the Company may require for the Purposes of this and the said incorporated Acts.

Company to
take up and
replace Pipes
in the Bed
of the River
Esk or
Harbour of
Whitby when
required by
the Admiralty
so to do.

XX. That in case the Bed of the River *Esk* or Harbour of *Whitby* shall at any Time or Times hereafter be deepened or lowered over the Pipe or Pipes to be laid by the Company in the Soil of the Bed of the said River or Harbour, the Company shall and they are hereby required, at their own Expense, and on the Requisition of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid, to be signified in Writing under the Hand of the Secretary of the Admiralty, to take up and remove any then existing Pipe or Pipes so laid as aforesaid, and to replace such Pipe or Pipes below or under such deepened or lowered Surface of the Bed of the said River or Harbour, according to such Plan as shall be approved by the said Lord High Admiral or the said Commissioners; and the Company shall pay and defray all the Costs and Charges of and incident to such Approval, and of and incident to any Inquiry instituted by the said Lord High Admiral or Commissioners in reference to any such Alteration as aforesaid, and in default of Payment the Amount of such Costs and Charges shall be recoverable from the Company as a Debt due to the Crown.

XXI. That

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XXI. That the Persons empowered by the said Lands Clauses Consolidation Act to convey Lands shall have full Power to grant Leases of any Lands for the Purposes of this Act, or any Easement, Power, or Authority in or over such Lands.

Owners may grant Leases.

XXII. That in every Lease taken by the Company under the Powers of this Act of any Lands from any Person under any Disability or Incapacity to sell and convey Lands, as defined in the said Lands Clauses Consolidation Act, there shall be reserved the best or most usual yearly Rent for or in respect of such Lands, and no Fine, Premium, or Foregift shall be paid upon or in respect of such Lease.

Lands to be leased at best yearly Rent.

XXIII. That all Leases of Land to be taken on Lease by virtue of the Powers or Provisions of this or the said incorporated Acts may be according to the Form in Schedule (A.) to this Act annexed, or as near thereto as the Circumstances of the Case will admit.

Form of Lease.

XXIV. That in addition to the Lands authorized to be purchased as aforesaid, it shall be lawful for the Company to contract with any Party or Parties willing to sell or lease the same for the Purchase or Lease of any Land not exceeding in Quantity Five Acres, and any Easements, Power, or Authority in or over the same, which shall be deemed proper or expedient for the Purposes of the said Undertaking; and it shall be lawful for all Persons who, under the Provisions hereinbefore and in the said incorporated Acts contained, would be enabled to sell or convey Lands for the said Undertaking, to sell and convey such additional Quantity of Land so required.

Power to purchase additional Quantity of Land.

XXV. That the Works hereby authorized shall be completed within Five Years from the passing of this Act, and on the Expiration of such Period the Powers by this or the said incorporated Acts granted to the Company for completing such Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Works as shall then be completed: Provided always, that nothing in this Act contained shall extend or be construed to extend so as to restrain the Company from enlarging and extending their Mains and Pipes and Works from Time to Time, whenever it shall be necessary for the Purpose of supplying the said Inhabitants and Shipping with Water.

Period within which Waterworks are to be completed.

XXVI. That the Company shall, at the Request of the Owner or Occupier of any House or Part of a House in any Street in which any Pipe of the Company shall be laid, or on the Application of any Person who, under the Provisions of this Act or any Act incorporated herewith, shall be entitled to demand a Supply of Water for domestic Purposes, furnish to such Owner or Occupier or other Person a sufficient

Rate at which Water is to be supplied for domestic Purposes.

[Local.]

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cient

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cient Supply of Water for domestic Use, at Rates not exceeding the Rates herein-after specified ; (that is to say,)

Where no
Watercloset
or private
Bath.

If there be no Watercloset or private Bath in or appurtenant to the Dwelling House to be supplied with Water, then at and after a Rate not exceeding Seven Pounds *per Centum per Annum* on the annual Rackrent or Value of such Dwelling House :

If there be a
Watercloset
or private
Bath.

If there be a Watercloset or Waterclosets, or private Bath or private Baths, in such Dwelling House, then, in addition to the Rates computed as above specified, the following Rates shall be payable; (that is to say,)

Where the annual Rent or Value of the Dwelling House or Premises so supplied with Water does not exceed Ten Pounds *per Annum*, for One Watercloset or private Bath the Sum of Four Shillings *per Annum*; and for each additional Watercloset or private Bath, if more than One, the Sum of Two Shillings *per Annum* :

Where such Rent or Value shall exceed Ten Pounds *per Annum*, and shall not exceed Twenty Pounds *per Annum*, for One Watercloset or private Bath the Sum of Six Shillings *per Annum*; and for each additional Watercloset or private Bath, if more than One, the Sum of Three Shillings *per Annum* :

Where such Rent or Value shall exceed Twenty Pounds *per Annum* and shall not exceed Forty Pounds *per Annum*, for the Watercloset or private Bath, the Sum of Eight Shillings *per Annum*; and for each additional Watercloset or private Bath, if more than One, the Sum of Four Shillings *per Annum* :

Where such Rent or Value shall exceed Forty Pounds *per Annum* and shall not exceed Eighty Pounds *per Annum*, for One Watercloset or private Bath, the Sum of Ten Shillings *per Annum*; and for each additional Watercloset or private Bath, if more than One, the Sum of Five Shillings *per Annum* :

Where such Rent or Value shall exceed Eighty Pounds or upwards *per Annum*, for One Watercloset or private Bath, the Sum of Twelve Shillings *per Annum*; and for each additional Watercloset or private Bath, if more than One, the Sum of Six Shillings *per Annum* :

Company in
certain Cases
not com-
pelled to
supply Water-
closets, &c.

Provided always, that the Company shall not be compelled to supply with Water any Watercloset or private Bath, or the Apparatus or Pipes connected therewith, unless the same shall be so constructed and used 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 Mains or Pipes belonging to or connected with the Mains or Pipes of the Company, nor unless such private Bath

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Bath shall be so constructed as to contain when filled for Use not exceeding Fifty Gallons of Water.

XXVII. That a Supply of Water for domestic Purposes shall not include a Supply of Water for Horses, Cattle, or washing Carriages, (except in Cases in which the Company shall be unable to distinguish the annual Rackrent or Value of the Dwelling House from the total annual Rackrent or Value of the Premises whereof such Dwelling House is a Part,) or for any Trade, Manufacture, or Business whatsoever, or for watering Gardens, or for Fountains, or for any ornamental Purposes whatsoever.

What shall
be deemed
domestic
Purposes.

XXVIII. That it shall be lawful for the Company to lease the whole or any of the Rates or Rents payable to the Company by virtue of this Act or otherwise, to any Person or Persons, for any Term not exceeding Five Years, and upon such Rents, Covenants, and Conditions as the Company shall think fit: Provided always, that no such Lease shall defeat or abridge the Powers by the said Waterworks Clauses Act given to the Court of Quarter Sessions, of directing the Reduction of the Rates; and the Company shall reduce the Rates in the same Manner they would have done in case no Lease had been granted.

Power to
lease the
Rents or
Rates.

XXIX. That in respect of the Supply of Water in pursuance of the Thirty-fifth Section of the "Waterworks Clauses Act, 1847," the Water so to be supplied need not be constantly laid on under a Pressure greater than that to be afforded from the Service Reservoir by this Act authorized to be constructed.

High Pres-
sure.

XXX. That it shall be lawful for the Company to supply any Person with Water for other than domestic Purposes, for such Remuneration and upon such Terms and Conditions as shall be agreed upon between the Company and the Persons desirous of having such Supply of Water.

Water for
other than
domestic
Purposes to
be supplied
by Agree-
ment.

XXXI. That nothing herein contained shall be deemed or construed to exempt the said Company from the Provisions of the "Public Health Act, 1848," or of any General Act relating thereto or to the Subject Matter thereof which may pass during the present or any future Session of Parliament.

Undertaking
not to be
exempt from
Provisions of
11 & 12 Vict.
c. 63.

XXXII. That the Company shall have full Power and Authority to contract and agree with any Local Board of Health established or which may hereafter be established in or for the said Town of *Whitby*, for the Supply of Water for the Purposes of the Public Health Act, in any Manner whatsoever.

Power to
make Agree-
ments with
Local Board
of Health.

XXXIII. That

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An annual Sum to be paid to the Lord of Manor in respect of Privilege of breaking up Soil, &c.

XXXIII. That the said Company shall and they are hereby required to pay to the Lord for the Time being of the Manor of *Whitby* and Liberty of *Whitby Strand* the Sum of Twenty-one Shillings yearly, as and by way of Acknowledgment for the Privilege hereby granted to them of breaking up the Soil of the Streets, Roads, Lanes, Highways, Bridges, Passages, and other public Places within the Limits of this Act, belonging to the Lord of the said Manor and Liberty, and of carrying Pipes into or across the said Harbour of *Whitby*.

Saving Rights of the Lord of the Manor of *Whitby*.

XXXIV. That nothing herein contained shall prevent or hinder the Lord of the Manor of *Whitby* and Liberty of *Whitby Strand* for the Time being, or any other Person, from having or taking any legal Remedy against any Person for any Encroachment that is or shall be made within the Limits of this Act: Provided also, that nothing in this Act contained shall extend or be construed to extend to alter, lessen, prejudice, defeat, or impeach any of the Powers, Rights, or Privileges of the said Lord for the Time being of the Manor of *Whitby* and Liberty of *Whitby Strand*, or his Jurisdiction within the same Manor or Liberty, except so far as the same are inconsistent with the Purposes of this Act, or are by this Act expressly altered, lessened, prejudiced, defeated, or impeached.

Providing for laying down Aqueduct or Main Pipe in the Lands of H. W. Yeoman, C. Yeoman, M. A. Yeoman, and J. Yeoman.

XXXV. Whereas certain Lands which will be intersected by or be required to be taken or used for the Aqueduct or Main Pipe delineated on the said deposited Plans and Sections are now vested or reputed to be vested in or to belong to *Henry Walker Yeoman Esquire*, or in or to some Person or Persons in trust for him, and certain other Lands which will also be intersected or required as aforesaid now belong or are reputed to belong to the said *Henry Walker Yeoman* and to *Constantine Yeoman, Esquires, Mary Anne Yeoman Spinster, and John Yeoman Esquire*, or to some Person or Persons in trust for him, her, or them, which several Lands or any Part or Parts thereof respectively it is not desirable to sell or convey unto the said Company for all or any of the Purposes of this Act: Be it enacted, That if the said *Henry Walker Yeoman, Constantine Yeoman, Mary Anne Yeoman, and John Yeoman* respectively, or their respective Heirs or Assigns, shall, within the Space of Four Calendar Months from and after the Service of a Notice under the Common Seal of the Company delivered to them or left at their last or usual Places of Abode, stating the Intention of the Company to lay down such Aqueduct or Main Pipe in, through, over, or across any of the said several Lands belonging to or vested in the said *Henry Walker Yeoman*, or in the said *Henry Walker Yeoman, Constantine Yeoman, Mary Anne Yeoman, and John Yeoman* respectively, or their respective Heirs or Assigns, or any Person or Persons in trust for him, her, or them respectively as aforesaid, and specifying the Particulars of the
Lands

The Whitby Waterworks Act, 1851.

Lands required for that Purpose, effectually grant and convey to the Company in perpetuity an Easement, Passage, Channel, and Right of Way for such Aqueduct or Main Pipe in, through, over, and across such Lands, in such full and complete Manner as may be necessary for the Purpose of laying down, fixing, and arranging such Aqueduct or Main Pipe, and of maintaining, repairing, altering, inspecting, regulating, cleansing, and draining the same and the Water flowing therein, with full Right for the said Company and their Servants from Time to Time to enter into and upon the same Lands, and to pass and repass into, out of, through, over, and along the same for the Purposes aforesaid, in consideration of such Compensation for and in respect of such Grant and Conveyance as shall be mutually agreed upon, or as in case of Difference shall be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," for settling Cases of disputed Compensation, it shall not be lawful for the Company to require or compel the said *Henry Walker Yeoman, Constantine Yeoman, Mary Anne Yeoman, and John Yeoman*, their Heirs or Assigns, or any of them, or any Person or Persons in trust for him, her, or them respectively, to sell or convey such Lands or any Part or Parts thereof respectively, anything in this Act or any Act incorporated therewith contained to the contrary notwithstanding; nor in such Case shall the Company be entitled to make, erect, or construct any Reservoir, Engine-house, or other Erection or Building upon such Lands or any Part thereof, other than such Bridges, Arches, or Supports as may be necessary for the Transit of their said Aqueduct or Main Pipe, and such Drains as may be necessary or proper for emptying and cleansing the same, without the Consent in Writing of the said *Henry Walker Yeoman, Constantine Yeoman, Mary Anne Yeoman, and John Yeoman* respectively, their Heirs or Assigns, for that Purpose first had and obtained.

XXXVI. That all Costs, Charges, and Expenses incident to the applying for and passing this Act shall be paid by the Company or the Directors thereof out of the Monies subscribed to the Undertaking, or out of the Monies which may be received by virtue of this Act. Expenses of Act.

SCHEDULE (A.) to which the foregoing Act refers.

Form of Lease.

I of in consideration of the Rent hereinafter reserved and made payable by the Whitby Waterworks Company, do hereby demise to the said Company, their Successors and Assigns, all [*describing the Premises to be demised*], together with all Ways, Rights, and Appurtenances thereunto belonging, to hold the Premises to the said Company, their Successors and Assigns, for the Term of Years from the Day of the Date hereof, yielding and paying therefor yearly and every Year during the said Term the Sum of £ , free from Land Tax, Sewers Rates, and all other Taxes and Outgoings (Property and Income Tax excepted), by equal Payments in the Year, the First Payment to be made on the Day of , according to the true Intent and Meaning of the Act of Parliament incorporating the said Company.

In witness whereof I have hereunto set my Hand and Seal, and the said Company have hereunto affixed their Common Seal, the Day of .

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