



ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. cxxi.

An Act for better supplying with Water the Town of *Whitehaven* and its Neighbourhood; and for other Purposes. [23d June 1864.]

WHEREAS by "The *Whitehaven* Waterworks Act, 1849," 12 & 13 Vict. c. xvii. the Lord of the Manor of *Saint Bees* and the rest of the Trustees of the Port, Harbour, and Town of *Whitehaven* (in this Act called the Trustees) were authorized to supply Water within the several Parishes or Places of *Whitehaven*, *Preston Quarter*, *Mount Pleasant*, and *Hensingham*, all in the County of *Cumberland*, and in order thereto to make and maintain Waterworks, and to take and use Waters of the River *Ehen* not exceeding One million Gallons a Day, and to make and maintain Works at the Mouth of *Ennerdale Lake* for impounding and drawing therefrom Water, and the Trustees were by Section 31. required to keep a separate and distinct Account, to be called "the *Whitehaven* Water Account," of all Monies received or paid under the Act, and by Section 32. all Monies received under the Act were to be carried to the Credit of "the *Whitehaven* Water Account," and by Section 33. the Trustees were authorized to borrow on the Credit of the *Whitehaven* Water Account any Sum not exceeding Twenty-six thousand six hundred and sixty-six Pounds, and for securing the Repayment thereof with Interest to mortgage the

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Whitehaven Water Account, or any Monies accruing or to be paid thereto: And whereas the Trustees have put the recited Act into execution, and have borrowed on the Credit of the *Whitehaven* Water Account the Sum of Twenty-six thousand three hundred and ninety Pounds, which is now secured on the Credit thereof by Mortgages granted by them: And whereas it is expedient that the Trustees be authorized to make and maintain the additional Waterworks by this Act authorized: And whereas a Plan and Section of the Waterworks intended to be constructed or laid down under the Authority of this Act showing the Line, Situation, and Levels thereof, and a Book of Reference to such Plan containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands in, over, upon, through, or under which the same are intended to be constructed or laid down, have been deposited with the Clerk of the Peace for the County of *Cumberland*, and such Plan, Section, and Book of Reference are in this Act referred to as the deposited Plan, Section, and Book of Reference: And whereas it is expedient that the Trustees be authorized to levy Rates and to borrow a further Sum of Money for the Purposes of the said Waterworks; but these Purposes cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; (that is to say,)

Short Title.

1. This Act may for all Purposes be cited as "The *Whitehaven* Waterworks Act, 1864."

Powers of recited Act extended to this Act.

2. Provided always, That all the Powers and Provisions of "The *Whitehaven* Waterworks Act, 1849," so far as the same are now in force, (except such of them or such Parts thereof as are by this Act altered or otherwise provided for, or are contrary to or inconsistent therewith,) shall extend to this Act, and to the several Works and Things hereby authorized to be made and done, and shall operate and be in force in reference thereto as fully and effectually as if the same were repeated and re-enacted in this Act, and especially referred to the Object and Purposes thereof.

Limits of this Act.

3. The Limits of this Act, except as is provided for by Section Twenty-seven of this Act, shall comprise and include the several Parishes, Townships, or other Places of *Whitehaven*, *Preston Quarter*, *Mount Pleasant*, and *Hensingham*, all in the County of *Cumberland*.

8 & 9 Vict. c. 18.,
10 & 11 Vict. c. 17.,

4. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," and "The Waterworks

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Waterworks Clauses Act, 1847 and 1863," save so far as any of the Sections and Provisions of those Acts respectively are expressly varied or excepted by this Act, are respectively incorporated with this Act.

23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 93. incorporated.

5. The several Words and Expressions to which by the Acts in whole or in part incorporated with this Act Meanings are assigned shall have in this Act the same respective Meanings, unless excluded by the Subject or Context, and except so far as is by this Act otherwise provided: Provided always, that for the Purposes of this Act the Expressions "Superior Courts" and "Court of competent Jurisdiction" in those Acts shall be read and have effect as if the Debt or Demand with respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute.

Same Meanings to Words in incorporated Acts as in this Act.

6. It shall be lawful for the Trustees, subject to the Provisions and Restrictions in this and the said incorporated Acts contained, to make and maintain the said Waterworks in the Line and on the Levels and upon the Lands delineated on the said Plan and Section, and described in the said Book of Reference.

Power to make Works according to deposited Plan, &c.

7. Instead of taking any Portion of the Waters of the River *Ehen* as by the recited Act authorized, it shall be lawful for the Trustees, for the Purposes of the recited Act and this Act respectively, by means of the Works by this Act authorized, to take directly from *Ennerdale Lake* the same daily Quantity of Water, not exceeding One million Gallons *per Day*, as by the recited Act the Trustees were authorized to take from the River *Ehen*, and which Quantity of Water under the recited Act was to be drawn or discharged out of the Lake into the River: Provided that this Act shall not authorize the Trustees to take from the Lake in any One Day a Quantity of Water greater than the Quantity which under the recited Act they were authorized to draw or discharge *per Day* from the Lake into the River.

Power to take Water not exceeding 1,000,000 Gallons a Day from Ennerdale Lake, &c.

8. For the Purpose of measuring the Quantity of Water to be drawn by the Trustees from the said Lake called *Ennerdale Lake* they shall cause to be erected and for ever thereafter maintained in a proper State of Repair in the said Lake proper Gauges or other Apparatus, and such Gauges and other Apparatus shall be respectively open at all reasonable Times to the Inspection and Examination of all the Owners and Occupiers of Mills upon the said River *Ehen*, and other Persons interested in the Flow of Water of the said River, and to the Agents of all such Persons respectively; and the Trustees shall not, otherwise than by Agreement, place any Gauge, Apparatus, or other Works, except the Main Pipe by this Act authorized, upon

Gauges to be constructed by Trustees for measuring Quantity of Water to be drawn from Lake.

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any Land belonging to Mr. *Thomas Ainsworth* of the *Flosh*, his Heirs or Assigns: Provided that if any Difference shall arise between the Trustees and the Owners or Occupiers of any such Mills, or other Persons interested in the Waters of the said River as aforesaid, or any of them, as to the proper Construction or Maintenance of the said Gauges or other Apparatus, such Difference shall from Time to Time be settled by an Arbitrator to be appointed by the Parties differing, and in default of such Appointment for One Calendar Month after such Difference shall have arisen, and Notice in Writing to appoint such Arbitrator shall have been given by One of the Parties to the other, then by the Board of Trade, and such Arbitrator shall have Power to decide by which of the Parties and in what Proportions the Costs of such Appointment and Arbitration shall be paid.

Penalty in the event of more than 1,000,000 of Gallons per Diem being drawn from the Lake.

9. In case the Trustees shall not, within Seven Days after Notice given to them of any Failure, Neglect, or Default on their Part by which the Quantity of Water taken by them from the said Lake shall exceed One million Gallons a Day, proceed effectually to remedy such Failure, Neglect, or Default, then the said Trustees shall for every Day forfeit and pay to each and every one of the said Occupiers of Mills on the said River *Ehen* who shall sue for the same the Sum of Ten Pounds, which Sum, together with full Costs, may be recovered of and from the Trustees in like Manner as Penalties may be recovered under the Provisions of "The Lands Clauses Consolidation Act, 1845," applicable to the Recovery of Forfeitures, Penalties, and Costs.

Power for Trustees to take Lands.

10. Subject to the Provisions of this Act and the Acts wholly or partially incorporated therewith, the Trustees from Time to Time may enter upon, take, and use for the Purposes of this Act such of the Lands shown on the deposited Plan and specified in the deposited Book of Reference as the Trustees from Time to Time think fit, or where they think fit they may purchase any Easement, Right, Privilege, Power, or Authority in, over, or affecting any of those Lands without taking any other Estate or Interest therein.

Powers for compulsory Purchases limited.

11. The Powers of the Trustees for the compulsory Purchase of Lands for the Purposes of this Act shall not be exercised after the Expiration of Four Years after the passing of this Act.

Period for Completion of Works.

12. The Works shown on the deposited Plan and by this Act authorized shall be completed within Five Years after the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Trustees for making the same, or otherwise in relation thereto, shall cease to be exercised, except with respect to so much thereof as is then completed: Provided always, that nothing in this Act

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Act contained shall extend or be construed to extend so as to restrain or prevent the Trustees from Time to Time enlarging and extending their Main Pipes and Works whenever for the supplying of Water within the Limits of this Act they find it requisite so to do.

13. The Trustees from Time to Time may purchase by Agreement, in addition to the Land and Waters by this Act authorized to be purchased or taken compulsorily, any Lands for the extraordinary Purposes specified in "The Waterworks Clauses Act, 1847 and 1863," not exceeding in the whole Five Acres, and any Easements, Powers, and Authorities in and over any Lands.

Lands for extraordinary Purposes.

14. The Persons by "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Acts Amendment Act, 1860," empowered to sell and convey Lands, may grant in Fee for the Purposes of this Act, and in consideration of an annual Rentcharge, any Lands as provided by the said Act of 1860, or any Easement, Power, Privilege, or Authority over any Lands, excepting always any other Supply of Water than is by this Act authorized.

Provisions for Grants on Rentcharge to Trustees.

15. The Trustees may purchase and hold in the Name of the Lord of the Manor of *Saint Bees* all Lands, Easements, Powers, and Privileges authorized to be taken for the Purposes of this Act.

Purchases in Name of Lord of Manor of St. Bees.

16. For the Purposes of this Act the several Provisions of "The Lands Clauses Consolidation Acts Amendment Act, 1860," with respect to Lands and Rentcharges, so far as the same respectively are applicable in that Behalf, shall extend and apply to Easements and Rentcharges reserved by Grants of Easements respectively.

Application of 23 & 24 Vict. c. 106. to Easements.

17. It shall be lawful for the Trustees from Time to Time as Occasion may require to levy for the Purposes of this and the recited Act from and upon the Occupiers of all Dwelling Houses and other Premises in the said recited Act mentioned a Public Water Rate, such Rate not to exceed the Sum of Six Pounds and Five Shillings *per Centum* in any One Year ; and all the Powers and Provisions of the said recited Act in relation to the Water Rate thereby authorized to be levied shall apply to the Rate by this Act authorized as fully and effectually as if the same were incorporated with and formed Part of this Act.

Power to levy Water Rate.

18. The Trustees from Time to Time may borrow under this Act, on Mortgage of the Monies from Time to Time paid or payable to "the *Whitehaven Water Account*," any Sums not exceeding
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Power to borrow on Mortgage.

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in the whole (inclusive of Sums which by "The *Whitehaven Waterworks Act, 1849,*" they are authorized to borrow on the Security thereof) Forty-seven thousand Pounds, and the Trustees from Time to Time may reborrow under this Act all or any Part of the Sum which by the recited Act or this Act they are authorized so to borrow.

Part of
10 & 11 Vict.
c. 16. incor-
porated.

19. The Provisions with respect to the Mortgages to be executed by the Trustees contained in the Commissioners Clauses Act, 1847, are incorporated with this Act, and apply to the Trustees.

Priority of
existing
Mortgages.

20. Provided, That all Mortgages granted by the Trustees under the recited Act, and before the passing of this Act, shall during the Continuance thereof respectively have Priority over all Mortgages granted by the Trustees under this Act.

Arrears may
be enforced
by Appoint-
ment of a
Receiver.

21. The Mortgagees of the Trustees under this Act may enforce the Payment of the Arrears of Interest or of Principal and Interest due on their Mortgages by the Appointment of a Receiver, and the Amount to authorize a Requisition for a Receiver is Four thousand Pounds.

Sinking
Fund.

22. The Amount to be annually set apart by the Trustees for the Sinking Fund provided for by the recited Act shall be a Sum not exceeding Two Pounds Ten Shillings *per Centum per Annum*, nor less than One Pound *per Centum per Annum*, upon the Amount from Time to Time borrowed under this Act, and the Sinking Fund shall be applicable for the Redemption of Mortgages granted by the Trustees under this Act, as well as for the Redemption of Mortgages granted by them under the recited Act, but only in accordance with the respective Priorities between themselves of those Mortgagees.

Power to
Trustees to
make Rules,
&c. for pre-
venting
Waste of
Water.

23. For the Purpose of preventing the Waste, Misuse, or undue Consumption or Contamination of the Water to be supplied by the Trustees, the Trustees may from Time to Time make such Rules and Regulations as they think necessary to be observed by the Persons supplied with such Water, and may thereby direct the Use, and prescribe the Size, Nature, Strength, and Materials, and the Mode of Arrangement, Alteration, and Repair, of the Pipes, Valves, Cocks, Cisterns, Baths, Soil Pans, Waterclosets, and other Apparatus or Receptacles, or any of them, to be used by such Persons respectively for conveying, delivering, and receiving the Water, and may thereby interdict any Arrangement and the Use of any Pipes, Valves, Cocks, Cisterns, Baths, Soil Pans, Waterclosets, and other Apparatus or Receptacles which in their Judgment will be likely to occasion any such

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such Waste, Misuse, undue Consumption, or Contamination; and the Pipes, Valves, Cocks, Cisterns, Baths, Soil Pans, Waterclosets, and other Apparatus and Receptacles used or to be used shall be made of such Size, Nature, Strength, and Materials, and shall be so arranged, kept, and repaired, as the Trustees from Time to Time so prescribe or otherwise approve; and in case of the Failure of any such Person to observe such Rules and Regulations, or any of them, the Trustees may, after Twenty-four Hours Notice in Writing, and by or under the Direction of their duly authorized Officer, repair, replace, or alter, or cause to be repaired, replaced, or altered, any Pipe, Valve, Cock, Cistern, Bath, Soil Pan, Watercloset, or other Apparatus or Receptacle of any Person supplied by them, and the Expenses of every such Repair, Replacement, or Alteration shall be repaid to the Trustees by the Person on whose Credit the Water is supplied, and may be recovered by them as Damages for the Recovery of which no special Provision is made.

24. The Water of the Trustees need not be laid on or supplied constantly, or under a Pressure sufficient to make it reach the top Stories of the highest Houses within the Limits of this Act, in the Cases in which such constant Supply or sufficient Pressure cannot be afforded from the Pipes laid down by the Trustees.

Exceptions to constant Supply and high Pressure.

25. Except where the Owner of any Dwelling House or Tenement the annual Value of which does not exceed Ten Pounds has agreed with the Trustees to pay the Water Rent for the Supply of Water to the Dwelling House or Tenement, the Water Rent due or accruing due in respect of the Supply shall be payable by and may be recovered from the Occupier of the Dwelling House or Tenement.

Occupier liable to Water Rent in certain Cases.

26. The Trustees may, notwithstanding anything in this Act contained, supply with Water from their Aqueduct or Line of Main Pipes any public Railway Company, or the Works thereof, situate within the several Parishes, Townships, Extra-parochial or other Places of *Ennerdale* otherwise *Ennerdale* and *Kinniside*, *Kelton*, *Salter*, and *Eskatt*, *Lamplugh*, *Kinniside*, *Egremont*, and *Cleator*, requiring such Supply for the Purposes of such Railway Company, at such Prices and on such Terms and Conditions as shall be agreed upon.

Trustees may supply Water by Agreement.

27. The Monies to be raised by Mortgage or to be levied by the Trustees under this Act shall be applied, first, in paying the Costs and Charges of passing this Act, and, secondly, in carrying the several Provisions of the recited Act and of this Act into execution, and to no other Purpose whatever.

Application of Monies.

28. Nothing

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Saving
Rights of
Lord of
Manor of
St. Bees
and others.

28. Nothing in this Act contained shall take away, lessen, prejudice, or alter any of the Rights or Privileges, Franchises, Powers, or Authorities, of or belonging to or vested in the Lord from Time to Time of the Manor of *Saint Bees*, or of the other Trustees, or *John Dickinson* Esquire, or *Thomas Ainsworth* Esquire, or any other Person, under or by virtue of the recited Act or the Acts therein recited, or any of them, but those Acts and all the Powers and Provisions and Matters and Things therein contained, so far as the same are now in force or are not modified by or inconsistent with this Act, shall continue in full Force and Effect in like Manner as if this Act were not passed.

Expenses of
Act.

29. All the Costs, Charges, and Expenses of and incident to the applying for, obtaining, and passing of this Act shall be paid by the Trustees out of the First Monies received by them in pursuance of the recited Act or this Act, and in preference to all other Payments whatever.

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