



CHAPTER xxxvii.

An Act to sanction certain works constructed by and expenditure of the Whitby Waterworks Company to make void a certain Deed of Grant to confer further powers on the Company and for other purposes. A.D. 1895.

[30th May 1895.]

WHEREAS by the Whitby Waterworks Act 1864 (in this Act called "the Act of 1864") the Whitby Waterworks Company (in this Act called "the Company") were incorporated and certain then existing waterworks were vested in them and they were empowered to construct waterworks and to supply water within the town and borough of Whitby and the neighbourhood thereof in the parish of Whitby in the north riding of the county of York :

And whereas in order to meet the constantly increasing demand for water within their limits of supply the Company became parties to an indenture (herein-after called "the recited indenture") dated the eleventh day of March one thousand eight hundred and seventy-one and expressed to be made between William Foster Jonas Foster Abraham Briggs Foster and John Foster the younger respectively therein described (herein-after called "the grantors") of the one part and the Company of the other part whereby subject (amongst other things) to a reservation to the grantors and their heirs and assigns of a right to take the whole of the waters of certain springs known as the Hazel Head Springs on the grantors Egton estate in the township of Egton in the said north riding and to a power to the grantors their heirs and assigns to place or lay down connecting pipes with and at any point or points they might please along the line of pipes to be laid by the Company as herein-after recited in order to draw off or take water therefrom and to a power to the grantors their heirs or assigns to determine the grant thereby made on any first day of January which should be in the year one thousand eight hundred and seventy-seven or any subsequent year after not less than three years notice in writing and to the payment

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of certain rents the grantors granted to the Company (amongst other things) a perpetual right to take the surplus waters of the said springs and a right to lay certain pipes and to construct certain works for the purpose of taking impounding conveying and using such waters :

And whereas the Company laid the said pipes and constructed the said works and have been and still are taking impounding conveying and using the said waters for the purposes of their undertaking :

And whereas by a subsequent arrangement with the grantors the Company have constructed upon the said estate a reservoir known as the Randy Mere Reservoir and have been and still are using the same for the purposes of their undertaking :

And whereas the said reservoir needs repair :

And whereas doubts have arisen as to whether the works aforesaid in connexion with the waters of the Hazel Head Springs and with the Randy Mere Reservoir were authorised by the Act of 1864 and it is expedient that such doubts be removed and the construction and execution of such works and all expenditure made by the Company in respect thereof be confirmed and that the future use and maintenance of the said works be authorised :

And whereas the consumption of water for domestic and other purposes within the Company's limits of supply is large and increasing and it is inexpedient that the availability of the waters of the Hazel Head Springs as a source of supply for such consumption should be precarious and it is expedient that the Company be empowered to acquire take impound convey and use for the purposes of their undertaking the said springs and the whole of the waters thereof and with that object the recited indenture be made void and provision be made as in this Act appears :

And whereas it is expedient that the Company be authorised to construct new works and to obtain an additional supply of water as in this Act appears :

And whereas by the Act of 1864 the capital of the Company was declared to be twenty thousand pounds and the Company were authorised to raise additional capital not exceeding ten thousand pounds and were authorised in respect of the said capital of twenty thousand pounds to borrow the sum of five thousand pounds and in respect of the said capital of ten thousand pounds to borrow the sum of two thousand five hundred pounds :

And whereas the Company have raised the whole of the said capital of twenty thousand pounds and have borrowed and owe on mortgage the said sum of five thousand pounds but have not raised any part of the said additional capital of ten thousand pounds or borrowed any money on mortgage in respect thereof :

And whereas the Company are not empowered to create debenture stock : A.D. 1895.

And whereas it is expedient that the Company be authorised to raise additional capital by shares or stock and to borrow for the purposes of this Act and the general purposes of their undertaking and be empowered to create debenture stock :

And whereas plans and sections showing the line situation and levels of the works sanctioned and of the works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the north riding of the county of York and are herein-after respectively referred to as the deposited plans sections and book of reference :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

1. This Act may be cited as the Whitby Water Act 1895.

Short title.

2. The following Acts and parts of Acts namely :—

The Lands Clauses Acts ;

Incorporation of enactments.

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof (but for the purpose only of constructing the New Work No. 1 by this Act authorised and the works immediately connected therewith) ;

The Waterworks Clauses Acts 1847 and 1863 ;

so far as the same are applicable for the purposes of and not inconsistent with the provisions of this Act are incorporated with and form part of this Act :

And the provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say) :—

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

The payment of subscriptions and the means of enforcing the payment of calls ;

The forfeiture of shares for non-payment of calls ;

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The remedies of creditors of the Company against the shareholders ;

The borrowing of money by the Company on mortgage or bond ;

The conversion of borrowed money into capital ;

The consolidation of the shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested ;

and Part I. (relating to cancellation and surrender of shares)

Part II. (relating to additional capital) and Part III. (relating

to debenture stock) of the Companies Clauses Act 1863 as

amended by the Companies Clauses Act 1869 shall (subject to

the provisions of this Act) extend and apply to the Company

and the additional capital by this Act authorised to be raised.

Interpreta-
tion.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. And for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Acts wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute :

For the purposes of this Act in the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this Act the expressions "the railway" "the work" and "the centre line of the railway" respectively mean the New Work No. 1 hereby authorised and the centre line of the said New Work No. 1 :

For the purposes of the Act of 1864 and this Act respectively the Waterworks Clauses Acts 1847 and 1863 incorporated with the Act of 1864 and this Act respectively shall be read and have effect as if the words in section 44 of the Waterworks Clauses Act 1847 "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" had been omitted.

Sanction and
confirmation
of works.

4. The construction and execution of the works herein-after in this section described (which works are in this Act referred to as "sanctioned works") as constructed and executed in accordance with the deposited plans and sections of the said works is hereby sanctioned confirmed and legalised.

The sanctioned works are the following:—

(Hazel Head Works)—Intakes collecting works and hut at the Hazel Head Springs consisting of catch-pits collecting wells drains pipes hut and other works for the purpose of abstracting water from the above-named springs situate wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe about 300 yards north of Wheeldale Gill commencing at a point distant 1200 yards or thereabouts in a westerly direction from a farmhouse called Hazel Head and terminating at the existing Hazel Head Tank which is a small covered iron tank situate on Egton High Moor distant about 250 yards west of Hazel Head Farmhouse in the angle formed by the northern boundary of field No. 27 and the western boundary of field No. 31 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton (otherwise Lythe) Also the existing intakes and collecting pipes for the purpose of abstracting water from certain springs rising to the north-east of the tank lastly herein-before described (that is to say) (A) An intake and collecting pipe commencing at a point distant 70 yards or thereabouts measured in a straight line in a north-easterly direction from the Hazel Head Tank and terminating by a junction with the Hazel Head Main herein-after described at a point distant 75 yards or thereabouts measured in a straight line in a westerly direction from the northern corner of field No. 30 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton (otherwise Lythe) (B) An intake and collecting pipe commencing at a point distant 30 yards or thereabouts measured in a straight line in a south-easterly direction from the north-western corner of field No. 52 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton (otherwise Lythe) and terminating by a junction with the said Hazel Head Main at a point distant 37 yards or thereabouts measured in a straight line in a northerly direction from the south-eastern corner of the field No. 80 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton;

(Catchwater Drain)—A catchwater drain situate wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at a point distant 70 yards or thereabouts measured in a straight line from the north-western corner of field No. 27 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton (otherwise Lythe) and 4 yards or thereabouts from the northern boundary of the last-mentioned field and terminating at a point distant 90 yards or thereabouts measured in a straight line in an easterly direction from the said point of

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commencement on the western boundary of field No. 31 on the said $\frac{1}{2500}$ Ordnance map of the parish of Egton ;

A connecting pipe situate wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at the point of termination of the said catchwater drain lastly herein-before described and terminating by a junction with the said Hazel Head Main at a point distant 57 yards or thereabouts measured in a straight line in a north-westerly direction from the north-western corner of field No. 29 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton ;

(Hazel Head Main)—A line or lines of pipes commencing in the parish and township of Egton or in the township of Egton in the parish of Lythe at the Hazel Head Tank and terminating in the parish of Eskdaleside-cum-Ugglebarnby at the point of junction of a road known as Fair Head Lane and the main road between Grosmont and Whitby by a junction with Conduit No. 1 authorised by the Act of 1864 ;

(Randy Mere Reservoir)—A reservoir situate wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe and numbered 1373 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton formed by the construction of two dams across the valley each 75 yards in length and 300 yards apart ;

(Collecting Pipe No. 1)—A collecting pipe wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at the southern corner of the Randy Mere Reservoir and terminating at the north-eastern corner of enclosure No. 1399 on the $\frac{1}{2500}$ Ordnance map of the said parish of Egton ;

A leat or channel wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at the western corner of Randy Mere Reservoir and terminating at a spring rising at a point distant 80 yards or thereabouts measured in a straight line in a southerly direction from the north-western corner of field No. 1341 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton ;

(Collecting Pipe No. 2)—A collecting pipe wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at the leat lastly herein-before described at a point thereon distant 60 yards or thereabouts measured along the course of the leat from the western corner of Randy Mere Reservoir and terminating in the bed of a stream at a point distant 66 yards or thereabouts measured in

a straight line in a north-westerly direction from the north-western corner of field No. 1341 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton;

A connecting pipe wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at a point on the Hazel Head Main distant 40 yards or thereabouts measured in a straight line in a north-easterly direction from the northern corner of Randy Mere Reservoir and terminating in Randy Mere Reservoir at a point on the eastern side thereof distant 55 yards or thereabouts from the said northern corner of Randy Mere Reservoir measured along the side of the reservoir;

(Outlet Pipe)—An outlet pipe wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at a point in Randy Mere Reservoir distant 22 yards or thereabouts measured in a straight line in a southerly direction from the northern corner of Randy Mere Reservoir and terminating by a junction with the Hazel Head Main at a point on that main distant 38 yards or thereabouts measured in a straight line in a northerly direction from the north-eastern corner of field No. 1342 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton Also an overflow and wash-out pipe or pipes wholly in the said parish and township of Egton or in the township of Egton in the parish of Lythe commencing at the same point of commencement as the said outlet pipe and terminating at a point distant 8 yards or thereabouts measured in a straight line in a southerly direction from the north-western corner of field No. 1342 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton (otherwise Lythe) Also a store shed and hut in connexion with Randy Mere Reservoir both situate near the northern corner of the said Randy Mere Reservoir in enclosure No. 1374 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton:

Together with all necessary and incidental existing overflows wash-outs sluice-valves chambers air-valves connexions culverts channels apparatus and appliances.

5. Subject to the provisions of this Act all acts done by and all expenditures of moneys by the Company or the directors or officers thereof in relation to or in connexion with the construction execution maintenance and use of the sanctioned works shall be as good and valid to all intents and purposes as if such acts respectively had been duly done and moneys duly expended in relation to or in connexion with the construction execution maintenance and use of works authorised by the Act of 1864.

Confirmation
of acts and
expenditure
in respect of
sanctioned
works by
Company
directors and
officers.

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Sanctioned
works to be
part of under-
taking.

6. The sanctioned works shall form part of the undertaking of and may be maintained and used by the Company as if such works had been authorised by the Act of 1864.

Confirmation
of scheduled
agreement.

7.—(1) The agreement whereof a copy is set forth in the schedule to this Act is hereby confirmed and made binding on the parties thereto.

(2) The said agreement shall as from the passing of this Act operate as a conveyance and grant by the grantors therein mentioned to the Company of the several hereditaments and premises respectively by Article 1 of such agreement agreed to be sold conveyed or granted for the several estates and interests of the grantors therein as in the said article mentioned:

Provided that such operation shall be without prejudice to the lien of the said grantors for any part of the purchase money in the said schedule mentioned which shall for the time being remain unpaid which lien is hereby expressly reserved to the said grantors.

(3) Within three months from the passing of this Act the Company shall produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's printers and duly stamped with the ad valorem stamp duty of the same amount as would have been payable if the aforesaid conveyance and grant had been by deed of conveyance and also duly stamped with the further ad valorem stamp duty of the same amount as would have been payable if the said agreement had been a mortgage and if the Company shall not within that period produce to the said Commissioners a copy of this Act duly stamped as aforesaid then the ad valorem stamp duty herein-before mentioned with interest thereon at the rate of five pounds per centum per annum from the expiration of the period of three months from the passing of this Act to the day of payment shall be a debt due to Her Majesty and recoverable from the Company with full costs of action and all costs and charges attending the same.

Recited in-
denture to be
void without
prejudice
&c.

8. Subject to the provisions of this Act the recited indenture shall as to any prospective operation thereof be wholly void but nothing in this Act shall take away alter defeat prejudice release or discharge any right claim interest liability or obligation of any of the parties to such indenture under or in respect of the provisions thereof accrued or incurred before the passing of this Act but such right claim interest liability or obligation may be enjoyed exercised and enforced as nearly as may be as if this Act had not been passed.

Power to
make new
works.

9. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the works shown on those plans whereof

the principal works are herein-after in this section described (all which works are in this Act referred to as "new works") and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for that purpose.

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The principal new works are the following:—

(New Work No. 1)—A puddle wall or walls along the north-eastern side of Randy Mere Reservoir wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing at the northern end of the eastern dam of that reservoir and terminating at the northern end of the western dam of that reservoir;

(New Work No. 2)—A line or lines of pipes wholly in the parish and township of Egton or in the township of Egton in the parish of Lythe commencing in the existing Hazel Head Main at a point distant 97 yards or thereabouts measured in a straight line north of the northern corner of Randy Mere Reservoir and terminating in the Hazel Head Main at a point distant 38 yards or thereabouts measured in a straight line in a northerly direction from the north-eastern corner of the field No. 1342 on the $\frac{1}{2500}$ Ordnance map of the parish of Egton;

(New Work No. 3)—A line or lines of pipes commencing in the parish and township of Egton or in the township of Egton in the parish of Lythe at a point in the existing Hazel Head Main in the public road at a point distant 517 yards or thereabouts measured along the said road from the northern corner of a house called High Burrows and terminating in the parish of Eskdaleside-cum-Ugglebarnby at the point of junction of a road known as Fair Head Lane and the main road between Grosmont and Whitby by a junction with the existing Conduit No. 1 authorised by the Act of 1864:

Together with all necessary drains pipes sluice-valves air-valves wash-outs junctions apparatus and other works and conveniences in connexion with or incidental to the said new works or any of them.

10. Subject to the provisions of this Act the Company in addition to the sanctioned works and the new works may from time to time upon any lands acquired or to be acquired by them make and maintain all such cuts channels adits aqueducts culverts tunnels drains sluices bye-washes weirs gauges standpipes filter beds tanks banks walls approaches telegraphs telephones engines machinery apparatus and appliances as may be necessary or convenient in connexion with the sanctioned works and the new works or any of them respectively But nothing in this section shall exonerate the Company from any

Power to
make subsi-
diary works.

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Provided that any telegraphs or telephones constructed under the authority of this Act shall not be used for the purpose of transmitting telegrams which are within the exclusive privilege conferred upon the Postmaster General by the Telegraph Act 1869.

As to payments to Postmaster General.

11. The Company may undertake to pay to the Postmaster General any loss he may sustain by reason of the establishment or maintenance at their request of any post or telegraph office or of any additional facilities (postal or other) in any rural district in connexion with the works authorised by this Act and any expenses incurred by the Company under such undertaking may be defrayed out of any revenue or funds of the Company.

Power to take waters.

12. Subject to the provisions of this Act the Company may take use divert and appropriate for the purposes of their undertaking the waters of the Hazel Head Springs in and about Hazel Head in the parish and township of Egton or in the township of Egton in the parish of Lythe and all such springs and streams of water as will be intercepted by the sanctioned works and the new works or any of them respectively and as may be found in upon or under any of the lands for the time being belonging to the Company or over which they may have or acquire rights or easements The waters which may be so taken used diverted and appropriated are the waters of springs and streams which now flow as to part thereof into Wheeldale Gill and as to other part thereof into Wheeldale Beck and thence into West Beck and as to other part thereof into Grain Beck and thence into West Beck and as to other part thereof into Lady Bridge Slack and thence into Oakly Beck and as to the whole thereof into the Murk Esk thence into the River Esk and thence into the North Sea or German Ocean.

Easements instead of lands by compulsion.

13. The Company may in lieu of acquiring any lands for the purpose of laying or maintaining any line of pipes whether forming part of the sanctioned works or of the new works acquire such easements in such lands as they may require for the purpose of constructing placing laying inspecting maintaining cleansing repairing conducting or managing the same and may give notice to treat in respect of such easements and may in such notice describe the nature thereof and the provisions of the Lands Clauses Acts shall apply to such easements as fully as if the same were lands within the meaning of those Acts :

Provided that as regards any lands taken or used by the Company for the purpose of laying or maintaining lines of pipes therein

where such lines of pipes are laid underground the Company shall not (unless they give notice to treat for such lands and not merely for easements therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same right of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been taken or used by the Company :

Provided also that except as to land forming part of a street nothing herein contained shall authorise the Company to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Company to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement shall be endorsed with notice of this proviso.

14. In making the new works the Company may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries or fences of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 feet upwards and 10 feet downwards.

Limits of deviation in making new works.

15. The powers of the Company for the compulsory purchase of lands for the new works shall cease after the expiration of three years from the passing of this Act.

Period for compulsory purchase of lands for new works.

16. If the new works shown on the deposited plans are not completed within four years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for executing any such work or otherwise in relation thereto shall cease except as to so much thereof as is then completed but nothing in this section shall restrict the Company from renewing extending enlarging altering reconstructing or removing any of their tanks tunnels engines sluices machinery apparatus filter beds mains pipes or other works or plant at any time and from time to time as occasion may require.

Period for completion of new works.

17. From and after the completion of the puddle wall or walls (New Work No. 1) by this Act authorised or from and after the expiration of four years from the passing of this Act (whichever shall first happen) the following provisions shall have effect in lieu of those contained in section 60 of the Act of 1864 (that is to say) :—

As to constant supply and pressure.

The water to be supplied by the Company shall be constantly laid on under not less pressure than would be afforded by

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gravitation from the Sneaton Castle Service Reservoir and section 60 of the Act of 1864 shall thereupon be by virtue of this Act repealed.

Power to acquire additional lands by agreement.

18. The Company may from time to time for the purposes of their undertaking acquire by agreement either in fee simple or for any term or terms of years in addition to lands which they are already authorised to hold or which they may take under the powers of this Act any lands not exceeding in the whole five acres or any easement right or privilege therein thereunder or thereover (not being an easement right or privilege of water in which other than the parties to the agreement have an interest) but the Company shall not deal with such lands so as to create or permit a nuisance or use any such lands for any building except buildings required for the undertaking of the Company.

Power to take easements &c. by agreement.

19. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which other than the parties to the agreement have an interest) required for the purposes of this Act in or over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to hold lands for protection of waterworks.

20. The Company may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of protecting their works against nuisances encroachment or injury and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Act or the Lands Clauses Acts respectively but the Company shall not deal with any such lands so as to create or permit a nuisance or use any such lands for any building except buildings required for the undertaking of the Company.

Sale &c. of superfluous lands.

21. The Company may subject to the provisions of the Lands Clauses Acts with respect to the sale of superfluous lands so far as such provisions are in each case applicable from time to time sell lease or otherwise dispose of in such manner and to such persons as the Company think fit any lands houses or other property for the time being belonging to the Company which they do not require for the purposes of their undertaking and in any such sale or lease the Company may reserve to themselves all or any water or water rights or other easements belonging to the lands sold or leased and may make the sale or lease for such consideration and subject to such

reservations conditions restrictions or provisions and generally upon such terms and conditions as the Company think fit. A.D. 1895.

22. The Company shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied. Restriction on taking houses of labouring class.

For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

23. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys they are authorised to raise and which they do not require for the purposes for which such moneys were authorised to be raised and may (subject to the provisions of Part II. of the Companies Clauses Act 1863) for the purposes of this Act and for the general purposes of their undertaking from time to time raise any additional capital not exceeding in the whole twelve thousand pounds by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by one or more of those modes which shares or stock shall for all purposes form part of the general capital of the Company. Company may raise additional capital.

24. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such share or any stock vest in the person accepting the same unless and until the full price of such share or stock including any premium obtained upon the sale thereof shall have been paid in respect thereof. Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce including any premiums which may be obtained on the sale thereof the sum of twelve thousand pounds. As to vesting of new shares or stock and conditions of issue.

25. Notwithstanding anything in any other Act the Company shall not in any one year make out of their profits any larger dividend on the additional capital of ten thousand pounds of additional capital by the Act of 1864 authorised to be raised but not yet Limit of dividend on new capital.

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raised or on the additional share capital to be raised under the powers of this Act than at the rate of seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend on the ordinary share capital which shall have fallen short of the said sum of seven pounds per centum per annum.

Dividends on different classes of stock or shares to be paid proportionately.

26. In case in any half year the funds of the Company applicable to dividend shall be insufficient to pay the full amount of dividend at the prescribed maximum rate on each class of ordinary shares or stock in the capital of the Company a proportionate reduction shall be made in the dividend of each class.

New shares or stock to be offered by auction or tender.

27. Notwithstanding anything in this Act contained the Company shall when any shares or stock created under the powers of this Act are to be issued and before offering the same to the holder of any other shares or stock in the Company and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not offer the same for sale by public auction or by tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine. Provided that at any such sale no single lot shall comprise more than one hundred pounds nominal value of shares or stock and that the reserve price put upon such shares or stock shall not except as herein-after provided by the section of this Act the marginal note whereof is "Shares or stock not sold by auction or by tender to be offered to shareholders" be less than the nominal amount thereof and notice of the amount of such reserve price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders as the case may be and such letter may be opened after such day of auction or last day for the reception of tenders and not sooner and provided that no priority of tender shall be allowed to any holder of shares or stock in the Company except that if any bidding or offer by tender of any holder or holders of shares or stock be the same in amount as any bid or offer made by any other person the bidding or offer of such holder or holders of shares or stock shall be accepted in preference.

Purchase money of capital sold by auction to be paid within three months.

28. It shall be one of the conditions of any sale of shares or stock under this Act that the full price including any premium given by any purchaser at such sale shall be paid to the Company within three months after such sale.

29. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the clerk to the Whitby Urban District Council and to the secretary of the committee of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the Company's limits of supply.

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Notice to be given as to sale of shares or stock by auction.

30. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserve price put upon the same respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863 Provided always that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender in the manner and subject to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act but at a lower reserve price than the price put upon the same at the preceding offer thereof for sale by auction or tender and any shares or stock not then sold shall be again offered to the holders of ordinary shares or ordinary stock at the last-mentioned reserve price and so from time to time until the whole of such shares or stock is sold.

Shares or stock not sold by auction or by tender to be offered to shareholders.

31. Any sum of money which shall arise by way of premium from the issue of any such shares or stock after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the works of the Company or in paying off money borrowed or owing on mortgage by the Company and shall not be considered as part of the capital of the Company entitled to dividend.

Application of premium arising on issue of shares or stock.

32. The Company may from time to time subject to the provisions of this Act borrow on mortgage of their undertaking any sum or sums not exceeding in the whole one-fourth part of the amount of the additional capital by this Act authorised to be raised and at the time actually issued by shares or stock but no part thereof shall be borrowed until the whole of the shares or stock at the time issued together with the premium (if any) realised on the sale thereof shall have been fully paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that such shares and stock and premium (if any) have been issued and fully

Power to borrow in respect of additional capital.

A.D. 1895. paid up and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Repeal of provisions of Act of 1864.

33. Sections 32 (Power to sue for arrears of interest on mortgages) and 33 (Powers to sue for principal moneys secured by mortgages or to apply for a receiver) of the Act of 1864 are hereby repealed but without prejudice to any existing mortgages or to any appointment which may have been made or to the continuance of any proceedings pending at the passing of this Act under those sections or either of them.

As to appointment of a receiver.

34. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. 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 one thousand pounds in the whole.

Existing mortgages to have priority.

35. All mortgages granted by the Company in pursuance of the powers of any Act before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture stock.

36. The Company in lieu of raising money on mortgage whether under the Act of 1864 or this Act may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and for such purpose notwithstanding anything in section 2 of the Act of 1864 the said Part III. shall from and after the passing of this Act be incorporated with and form part of the Act of 1864.

Notwithstanding anything in the said Part III. the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock or mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be given on all mortgages and certificates of debenture stock.

37. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the issue of debenture stock or any part thereof by the creation of shares or stock instead of borrowing or to convert into share capital any money borrowed under the powers of this Act unless in either case all dividends upon the shares or stock whether ordinary or preferential are limited to a rate not exceeding five per centum per annum.

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As to conversion of borrowed money into capital.

38. All and every part of the sums of money which the Company are by this Act authorised to raise by shares or stock or by borrowing shall be applied only to the purposes of this Act and to the general purposes of their undertaking being in all cases purposes to which capital is properly applicable.

Application of moneys.

39. The Company may from time to time enter into and carry into effect agreements with any urban or rural district council or any other local authority for the supply by the Company to such council or authority of water in bulk for any purposes and for any period and whether within or without the Company's limits of supply Provided that the Company shall not supply water under any such agreement if and so long as the affording such supply would prevent the Company from giving a full and sufficient supply for domestic purposes within their limits of supply.

Power to supply water in bulk.

40. Sections 70 and 71 of the Act of 1864 are incorporated with and form part of this Act and shall extend and apply to the Company and to the works sanctioned and authorised by this Act respectively.

For the protection of the North Eastern Railway Company.

41. In the event of the undertaking of the Company being acquired by the Whitby Urban District Council the amount of capital authorised to be raised under this Act excepting so much thereof as shall have been expended for all or any of the following purposes (that is to say):—

Provision in event of local authority being empowered to acquire under taking.

(a) In complying with the provisions of the section of this Act whereof the marginal note is "Costs of Act";

(b) In discharge of the amount of the overdraft of the Company at their bankers at the passing of this Act;

(c) In carrying into effect the agreement scheduled to this Act;

(d) On works authorised by this Act;

shall not be deemed to have increased the capital value of the said undertaking or be the subject of compensation or purchase.

42. All costs charges and expenses of incident and preliminary to the preparing and applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Costs of Act.

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The SCHEDULE referred to in the foregoing Act.

AGREEMENT dated the twenty-fifth day of March one thousand eight hundred and ninety-five between ABRAHAM BRIGGS FOSTER of Canwell Hall in the county of Stafford Esquire and JOHN FOSTER of Coombe Park near Reading in the county of Oxford Esquire (herein-after referred to as "the grantors") for themselves and their respective heirs and assigns of the one part and THE WHITBY WATERWORKS COMPANY (herein-after referred to as "the Company") of the other part.

WHEREAS the Company have introduced into Parliament a Bill (herein-after referred to as "the Bill") intituled "A Bill to sanction certain works constructed by and expenditure of the Whitby Waterworks Company to make void a certain Deed of Grant to confer further powers on the Company and for other purposes:"

And whereas the grantors are the owners in fee of certain lands and hereditaments in the north riding of the county of York known as the Egton Estate and the Bill contains various provisions affecting the property rights and interests of the grantors in the said estate and the grantors have presented a petition against the Bill objecting thereto:

And whereas the Bill has been referred to a Committee of the House of Commons presided over by Sir James Kitson Baronet as chairman and during the proceedings upon the Bill before the said Committee the Company have entered into negotiations with the grantors with a view to meeting the objections of the grantors to the Bill which negotiations have resulted in the arrangement herein-after set forth and the grantors have agreed not to further oppose the progress of the Bill through Parliament subject to the terms and conditions herein-after contained:

Now therefore it is hereby agreed and declared between the grantors and the Company as follows (that is to say):—

1. For the sum of seven thousand pounds (herein-after referred to as "the purchase money") and as from the Bill becoming law the grantors shall (subject as herein-after provided) sell and convey to the Company and the Company shall purchase the fee simple in possession of the land forming the site of the existing Randy Mere Reservoir and lands immediately surrounding the same all of which lands are coloured pink upon Sheet No. 3 of the duplicate copies signed by the said Sir James Kitson of the plans deposited for the purposes of the Bill (which signed copies are herein-after referred to as "the signed plans") together with a right of way to and from the said reservoir from and to the public road lying to the north-east of the said

reservoir over a strip of land twenty feet wide and coloured green upon the said Sheet No. 3 and the grantors shall also grant and convey to the Company a perpetual easement or wayleave for laying maintaining repairing and relaying mains and pipes over all the lands above the Hazel Head Tank included within the limits of deviation shown on Sheet No. 1 of the signed plans and thereon coloured green and a perpetual easement or wayleave for the same purpose and for the purpose of using and maintaining the existing leat over the several strips of land below the Hazel Head Tank respectively six yards wide and coloured green on Sheets Nos. 1 2 3 4 and 5 of the signed plans And the grantors shall also sell convey and grant to the Company all such rights of impounding and taking water by means of works now existing or which may be constructed under powers granted by the Bill as passed into law as the grantors may be able to sell convey or grant.

2. If and so long as the Company shall during a period of twelve years from the Bill becoming law pay punctually by half-yearly payments to the grantors interest at the rate of four per centum per annum upon the purchase money the Company shall not be liable to pay the purchase money to the grantors But upon the expiration of the said period of twelve years or the Company making default in the punctual payment of interest as aforesaid whichever shall first happen the Company shall forthwith become liable to pay the purchase money Provided that the grantors shall not be bound to accept payment of the purchase money or any part thereof until the expiration of the said period of twelve years.

3. Payment of the purchase money and of any interest payable as aforesaid which shall not be paid when the same shall become payable shall be enforceable in like manner as payment of arrears of principal or interest on mortgages might be enforced under the provisions of the section of the Bill as passed into law whereof the marginal note shall be "As to the appointment of a receiver" and such provisions and the provisions of the section of this Act whereof the marginal note is "Existing mortgages to have priority" shall accordingly extend and apply as if the grantors were mortgagees of the Company to which such sections shall relate and as if they were entitled to a mortgage upon the undertaking of the Company granted in pursuance of the powers of an Act before the passing of this Act and subsisting at the passing of this Act.

4. From and after the date of the passing of the Bill into law the Company shall supply free of charge to each homestead upon the Egton Estate heretofore supplied by the Company in accordance with a deed of indenture dated the eleventh day of March one thousand eight hundred and seventy-one and made between the grantors or their predecessors in title and the Company water to an annual amount not exceeding an average of two hundred and fifty gallons a day to each of such homesteads such supplies to be delivered by the Company at the points of junction of the service pipes with the Company's mains and thence be conveyed to the homesteads by the grantors or their tenants and for the purpose of ascertaining and checking the said amount the Company shall in the case of each such supply be at liberty at their own expense to fit fix and maintain a meter upon the service pipe near

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to the main but shall not make any charge for the said meters by way of rent or otherwise to the owners or occupiers of such homesteads.

5. In the case of any farm or building upon the Egton Estate not existing or not supplied with water by the Company prior to the date of the passing of the Bill into law it shall be lawful for the owner or occupier of such farm or building at any time by notice in writing to demand a supply of water from the Company and the Company shall thereupon proceed with all reasonable despatch to make the necessary connexion between the Company's main and the service pipe to be laid by such owner or occupier for the purpose of such supply and shall thenceforth supply into such service pipe an annual amount of water not exceeding an average of two hundred and fifty gallons a day at a charge after the rate of threepence per one thousand gallons and shall be at liberty to fit fix and maintain a meter for ascertaining and checking the amount so supplied and the owner or occupier of such farm or building shall pay to the Company all reasonable expenses of making the said connexion and shall also pay to the Company the same rent for the meter as the Company is for the time being authorised to charge under their Acts for similar meters within their limits of supply Provided that the Company shall not be obliged at any time to supply more than twelve farmhouses or buildings under the provisions of this article of this agreement.

6. The Company shall both in the case of the homesteads at present supplied by them as aforesaid and in the case of farms and buildings hereafter supplied by them as aforesaid have the same right of inspection and control and the same right of entry upon the premises supplied as the Company have under their Acts or the Acts incorporated therewith in the case of houses and premises supplied by them within their limits of supply.

7. Subject to the reservation contained in the proviso to this article of this agreement the grantors shall be at liberty to work the mines or minerals lying under the reservoirs works and buildings belonging to the Company upon the terms and conditions and subject to the provisions contained in the Waterworks Clauses Act 1847 Provided that it shall not be lawful for the grantors at any time to dig or make trenches or drains or any other similar works upon the surface of the land shown as edged with a blue border upon the portion of an Ordnance map which is pasted on Sheet No. 1 of the signed plans which portion of map is initialled by the said Sir James Kitson.

8. The Company shall compensate the grantors and their tenants for all injury which they may at any time sustain from leakage bursting or overflow of or from any reservoir or works of the Company.

9. The Company may at any time dig and take or cause to be dug and taken clay for the purposes of their works from such places on the Egton Estate within a mile of the existing Randy Mere Reservoir as shall be reasonably approved by the grantors or their agents in writing and shall pay to the grantors a sum of threepence per cubic yard for all clay so taken Provided that the Company shall so far as is reasonably practicable make good and level the surface of the land from which the clay shall have been dug or taken The Company shall compensate any tenant of the grantors who may sustain damage by the exercise of the powers of this article of this

agreement the amount of such compensation in case of dispute to be settled by the representative for the time being on the county council for the north riding for the electoral division in which the lands occupied by such tenant are situate or by a nominee of such representative. A.D. 1895.

10. It shall not be lawful for the Company to carry any telegraph telephone or other wires above ground across the Egton Estate but the Company may carry all such wires under ground through the lands coloured green on the signed plans making good and levelling the surface of the ground in which such wires are laid.

11. No officer servant or agent of the Company shall at any time cross or come upon the Egton Estate without the written authority of the Company and such officer servant or agent shall at all times when upon such estate upon demand produce and show such authority to the grantors their servants and agents.

12. It shall not be lawful for the Company at any time to erect or use any dwelling-house or place of abode upon any part of the lands coloured pink and green upon the signed plans or to use such lands or any easements or wayleave over the same for any other purpose whatsoever than the bonâ fide purpose of their water undertaking.

13. All rights of shooting fishing and sporting over the said lands coloured pink and green on the signed plans and over any reservoir erected or to be erected on such lands shall be reserved and belong exclusively to the grantors or other the owners or occupiers for the time being of the Egton Estate together with the free right of access and egress to from and over such lands and reservoirs at all reasonable times for the exercise of such sporting rights and the grantors or the owners or occupiers of the Egton Estate for the time being shall also for sporting purposes have free use of and access to the hut standing upon the land coloured green upon Sheet No. 1 of the signed plans being the same portion of land upon which the existing Hazel Head Tank is shown and the like use of the hut at Randy Mere Reservoir provided that the use by the grantors of the said huts shall not unreasonably interfere with their use by the Company for the purposes of their undertaking and provided that the grantors owners and occupiers aforesaid shall not be entitled to place or use any boat upon any such reservoir.

14. The Company shall within three calendar months of the passing of the Bill into law pay to the grantors the sum of five hundred guineas for the costs of and in connexion with their opposition to the Bill such sum to cover and include all such costs from the third day of November one thousand eight hundred and ninety-four to the date of the passing of the Bill into law but not to include any of the costs of this agreement.

15. In addition to the payment by the Company to the grantors of the sum of five hundred guineas as aforesaid the Company shall pay all the costs charges and expenses of and incidental to the preparation drafting approval and execution of this agreement.

16. This agreement is made subject to such alterations as Parliament may think fit to make therein and conditional on the passing of the Bill into law

A.D. 1895. and in case the Bill shall from any cause not pass into law this agreement shall be void and of no effect or validity.

In witness whereof the grantors have hereunto set their hands and seals and the Company have caused their common seal to be hereunto affixed the day and year first above written.

Signed sealed and delivered by the above-named Abraham Briggs Foster in the presence of ABRAHAM BRIGGS FOSTER. Seal.

ROBT. RODGERS
1 New Inn Strand
London W.C.
Solicitor.

Signed sealed and delivered by the above-named John Foster in the presence of JOHN FOSTER. Seal.

ROBT. RODGERS
Solicitor.

The common seal of the said Whitby Waterworks Company was affixed to the above-written agreement by order of the board of directors of the said Company at a meeting of the said board in the presence of J. R. The Common Seal of the Whitby Waterworks Company incorporated 1864.

HENRY SINCLAIR
Secretary of the said Company.

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