ANNO DECIMO OCTAVO

VICTORIÆ REGINÆ.

Cap. xxxiv.

An Act to enable the Company of Proprietors of the *Birmingham* Waterworks to construct new Waterworks; and for other Purposes.

[25th *May* 1855.]

WHEREAS by the Local and Personal Act of the Seventh *George* Fourth, Chapter One hundred and nine, the Company of Proprietors of the *Birmingham* Waterworks (hereinafter called "the Company") were incorporated, for the Purpose of constructing Waterworks, and supplying with Water the Town of *Birmingham*, and the several Parishes, Hamlets, and Places of *Birmingham*, *Aston*, *Duddeston*, *Duddeston* and *Nechells*, and *Edgbaston*, in the County of *Warwick*, with a Capital of One hundred and twenty thousand Pounds, divided into Shares of Twenty-five Pounds each, and with Power to borrow on Mortgage any further Sum not exceeding Thirty thousand Pounds: And whereas the Company proceeded to put the said Act into execution, and constructed Waterworks, and are now supplying Water within the Town, Parishes, Hamlets, and Places aforesaid, and raised and expended upon their Undertaking the whole of the said Capital of One hundred and twenty thousand Pounds, and the Sum of Thirty thousand Pounds borrowed by them under the Powers of the said Act: And whereas by "The 7 G. 4. c. cix.

Birmingham Waterworks (Capital) Act, 1854," the Company were empowered to raise, by the Creation of new Shares in their Undertaking, any further Sums of Money not exceeding in the whole One hundred and twenty thousand Pounds, and also (when the whole of the additional Capital for the Time being created under the Powers of that Act should have been subscribed for, and One Half of the entire Capital for the Time being of the Company should have been paid up,) to borrow on Mortgage any further Sums not exceeding in the whole One Fourth of the additional Capital so for the Time being created: And whereas the Company have accordingly created additional Capital to the full Amount of One hundred and twenty thousand Pounds, authorized by the lastly-recited Act, divided into Four thousand eight hundred Shares of the Amount of Twenty-five Pounds each, and Calls have been made in respect of those Shares, but no Part of the Sum of Thirty thousand Pounds, being One Fourth of the said additional Capital, has been borrowed on Mortgage or otherwise: And whereas since the passing of the firstly-recited Act the Population of the said Town, Parishes, and Hamlets, or Places, and the Number of Houses, Manufactories, and other Buildings therein, have greatly increased, and in order to meet the increased and increasing Demand for Water it is expedient that the Company should be empowered to increase their Supply of Water, and for the Purposes aforesaid to construct additional Waterworks, and to raise further Monies: And whereas, in order to avoid Inconveniences arising from several Private Acts relating to the same Purposes being in force at the same Time, it is expedient that the recited Acts should be repealed, and that some of the Powers and Provisions thereof should be amended and re-enacted or continued by this Act, and that further Powers should be given to the Company: And whereas the several Purposes aforesaid 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.

I. In citing this Act for any Purpose it shall be sufficient to use the Expression "*Birmingham* Waterworks Act, 1855."

Commencement of Act.

II. This Act shall commence and have effect on and from the Fourth *Wednesday* next after the passing thereof.

8 & 9 Vict. cc. 16. & 18. and 10 & 11 Vict. c. 17. incorporated.

III. "The Companies Clauses Consolidation Act, 1845," (except the Sections of that Act numbered LXXXIII. and LXXXVIII., relating to the Election and Rotation of Directors,) "The Lands Clauses Consolidation Act, 1845," and "The Waterworks Clauses Act, 1847," shall be

be incorporated with this Act; and for the Purposes of this Act the several Expressions "the Waterworks" and "the Undertaking," in "The Waterworks Clauses Act, 1847," shall respectively comprise as well the Waterworks and Works connected therewith by this Act authorized to be maintained as the Waterworks and Works connected therewith by this Act authorized to be made, and the Expression "the Undertakers" in that Act shall mean the Company.

Same Meanings to Words, &c. in incorporated Acts and this Act.

IV. The several Words and Expressions to which by the Acts incorporated with this Act Meanings are assigned shall have in this Act the same respective Meanings, unless there be something in the Subject or Context repugnant to or inconsistent with such Construction.

Recited Acts repealed.

V. Upon the Fourth *Wednesday* next after the passing of this Act the said recited Act of the Seventh Year of the Reign of King *George* the Fourth, and "The *Birmingham* Waterworks (Capital) Act, 1854," shall be and the same are hereby repealed.

Company to continue incorporated.

VI. Notwithstanding the Repeal of the recited Acts, the Company shall be and continue incorporated by the Name of "The Company of Proprietors of the *Birmingham* Waterworks," and by that Name shall be One Body Corporate, with perpetual Succession and a Common Seal, and with Power to construct and maintain Waterworks, and to supply Water, and to purchase, take, hold, and dispose of Lands and other Property, for the Purposes but subject to the Restrictions of this Act.

Company to remain entitled to their Property.

VII. Notwithstanding the Repeal of the recited Acts, the Company shall remain and be seised and possessed of and entitled to all the Waterworks, Aqueducts, Reservoirs, Mains, Pipes, Apparatus, and other Works and Conveniences, Lands, Buildings, Estates, Monies, Deeds, Papers, Maps, Plans, Funds, Securities, Property, Effects, Claims and Demands whatsoever, of or to which the Company shall by virtue of the recited Acts or either of them, or otherwise howsoever, be immediately before the Commencement of this Act seised, possessed, or in any way entitled, at Law or in Equity, or otherwise howsoever, or which were vested in the Company or in any Person on their Behalf, with the Appurtenances, as if the recited Acts were not repealed, and may, according to the Provisions of this Act, maintain and use such Waterworks, Aqueducts, Reservoirs, Mains, Pipes, Apparatus, and other Works and Conveniences, and by means thereof continue their Supply of Water from the Sources from which they were by the firstly-recited Act authorized to take the same.

Company to continue entitled to Powers

VIII. Notwithstanding the Repeal of the recited Acts, the several Clauses and Provisions whatsoever in favour of, relating to, or affecting

under other Acts.

affecting the Company, or the Directors, Officers, or Servants of the Company, contained in any Act or Acts other than the said recited Acts, and which shall immediately before the Commencement of this Act be in force, shall continue and be in full Force accordingly; and the Company, and their Directors, Officers, and Servants, shall accordingly and for the Purposes of this Act be entitled to, and have, exercise, and enjoy, and shall be subject to, under or by virtue of those Clauses and Provisions respectively, all such Rights, Interests, Powers, Authorities, and Privileges, Liabilities, Penalties, and Restrictions whatsoever, as, if the recited Acts were not repealed, the Company, and the Directors, Officers, and Servants of the Company, under or by virtue of those Clauses and Provisions, might be entitled to, or might have, exercise, or enjoy, or be subject to.

Repeal of recited Acts not to affect existing Rights.

IX. Notwithstanding the Repeal of the recited Acts, and except only as is by this Act otherwise expressly provided, everything before the Commencement of this Act done or suffered under the recited Acts or either of them shall be as valid as if the recited Acts were not repealed, and the Repeal thereof and this Act respectively shall accordingly be subject and without Prejudice to everything so done or suffered, and to all Rights, Liabilities, Claims, and Demands, both present and future, which if the recited Acts were not repealed, and this Act were not passed, would be incident to or consequent on any and every thing so done or suffered; and with respect to all such Rights, Liabilities, Claims, and Demands, the Company, as continued by this Act, shall to all Intents and Purposes represent the Company as incorporated by the firstly-recited Act: Provided always, that the Generality of this Enactment shall not be confined or restricted by any special Provisions in this Act contained.

Conveyances, &c. to remain in force.

X. Notwithstanding the Repeal of the recited Acts, all Purchases, Sales, Conveyances, Leases, Mortgages, Bonds, Contracts, Agreements, Securities, Arbitrations, Awards, and other Deeds, Instruments, Acts, and Things before the Commencement of this Act done, entered into, executed, or instituted under or by virtue of the recited Acts or either of them, or with reference to the Purposes of the same, shall be as good, valid, and effectual, to all Intents and Purposes, for, against, and with reference to the Company, as if the recited Acts were not repealed, and may be proceeded on and enforced accordingly.

Actions, &c. not to abate.

XI. Notwithstanding the Repeal of the recited Acts, any Action, Suit, Prosecution, or other Proceeding whatsoever, commenced either by or against the Company before the Commencement of this Act, shall not abate or be discontinued or prejudicially affected by this Act, but, on the contrary, shall continue and take effect, both in favour of

of and against the Company, in like Manner in all respects as the same would continue and take effect if the recited Acts were not repealed; and all Offences against the Provisions of the recited Acts or either of them committed before the Commencement of this Act may be prosecuted, and all Penalties incurred by reason of such Offences may be sued for, in like Manner in all respects as if the recited Acts were not repealed.

Water Rates due at the Commencement of Act to be recovered by Company.

XII. Notwithstanding the Repeal of the recited Acts, all Water Rates which immediately before the Commencement of this Act shall be due and payable or accruing due and payable to the Company shall be payable to and may be collected and recovered by the Company, in like Manner as the Water Rates by this Act authorized to be taken.

Debts due to and by Company to be paid to and by them.

XIII. Notwithstanding the Repeal of the recited Acts, all Persons who immediately before the Commencement of this Act shall owe any Sum of Money to the Company, or to any Person on their Behalf, shall pay the same, with all Interest (if any) due or to accrue due for the same, to the Company; and all Debts and Monies which immediately before the Commencement of this Act shall be due or owing by or recoverable from the Company, or for the Payment of which the Company are or but for this Act would be liable, shall be paid, with all Interest (if any) due or to accrue due thereon, by or be recoverable from the Company.

Books to be Evidence.

XIV. Notwithstanding the Repeal of the recited Acts, all Books and other Documents by those Acts or either of them directed or authorized to be kept, and which if those Acts were not repealed would be receivable in Evidence, shall be admitted as Evidence in all Courts of Law and Equity and elsewhere accordingly.

Certificates and Transfers to remain in force.

XV. Notwithstanding the Repeal of the recited Acts, all Certificates, Sales, Transfers, and Dispositions before the Commencement of this Act made or executed under the recited Acts or either of them of or with respect to any Shares in the Company shall remain in full Force and continue and be available in all respects.

Officers to continue.

XVI. Notwithstanding the Repeal of the recited Acts, every Clerk or other Officer and Servant appointed by virtue of or acting under the Authority of those Acts or either of them shall hold and enjoy his Office and Employment, with the Salary thereunto annexed, and be deemed an Officer and Servant of the Company, until he be removed from such Office and Employment, and shall have the like Power and Authority for the Purposes of this Act, and be subject to the like Power of Removal, Rules, Regulations, Pains, and Penalties, in all respects whatsoever, as if he were appointed under this Act.

Byelaws to continue in force.

XVII. Notwithstanding the Repeal of the recited Acts, all Byelaws, Regulations, and Orders made under those Acts or either of them shall continue in force until the same be repealed, altered, or varied under this Act, and such Byelaws, Rules, Regulations, and Orders, and all Penalties and Forfeitures thereby respectively imposed, may be enforced, recovered, and applied in the same Manner in all respects as if the same had been made and imposed respectively under this Act.

Capital.

XVIII. The Share Capital of the Company (inclusive of their now existing Share Capital of Two hundred and forty thousand Pounds) shall be Four hundred and twenty thousand Pounds.

Shares to represent existing Shares.

XIX. Two hundred and forty thousand Pounds, Part of the Capital, shall be divided into Nine thousand six hundred Shares of Twenty-five Pounds each, and those Shares shall be appropriated and belong to the several Persons who immediately before the Commencement of this Act shall be the Shareholders of the Company, in proportion to and as substituted for and representing their then Shares in the now existing Share Capital of Two hundred and forty thousand Pounds, and every Share so appropriated shall be deemed and taken to be paid up to the same Extent as the Share for which the same is substituted shall be paid up at the Time of the Commencement of this Act.

Substituted Shares subject to Trusts, &c. of original Shares.

XX. Every Share so appropriated shall be vested in the Person entitled thereto upon the same Trusts, and subject to the same Powers, Provisions, Declarations and Agreements, Charges and Incumbrances, upon and subject to which the Share for which the same is substituted shall be held immediately before the Commencement of this Act, and so as to give effect to and not to revoke any Will or other Disposition of or affecting such last-mentioned Share.

Power to create new Shares.

XXI. Subject to the Provisions of this Act, the Company may, from Time to Time or at any One Time, with the Approbation of Three Fourths at least of the Votes of the Shareholders present in Person or by Proxy at any Special Meeting of the Company convened for that Purpose, raise by the Creation and Issue of new Shares such Part of the rest of the Capital as for the Time being shall not be raised.

New Shares to be offered to existing Shareholders if existing Shares at a Premium.

XXII. If at the Time of raising any Share Capital by new Shares the then existing Shares are at a Premium, the new Share Capital to be then raised shall be divided into Shares of such Amount as will conveniently allow the same to be apportioned among the then Holders of the existing Shares in proportion to the Number of those Shares

Shares held by them respectively, and such new Shares shall be offered to them at Par in such Proportion.

Mode of making Offers.

XXIII. Such Offers shall be made by Letter under the Hand of the Secretary of the Company, given to every Shareholder, or sent by Post addressed to him according to his Address in the Books of the Company, or left for him at his usual or last known Place of Abode in *England*; and every such Offer made by Letter sent by Post shall be considered as made on the Day on which such Letter in the ordinary Course of Delivery ought to reach the Place to which it is addressed.

New Shares to vest in Shareholders.

XXIV. The new Shares so offered shall vest in and belong to the Shareholders who accept the same.

As to Disposition of new Shares.

XXV. Provided always, That if any Shareholder fail for Two Months after such Offer of new Shares to accept the same, the Company may dispose of such Shares in accordance with the other Provisions in this Act.

General Power to dispose of new Shares.

XXVI. Except as by this Act provided with reference to new Shares to be offered to existing Shareholders, the Company may from Time to Time sell the new Shares by public Auction, in such Manner, at such Times, and subject to such Conditions as they shall from Time to Time determine: Provided always, that Notice of every such Sale shall be previously given for Two successive Weeks in Two Newspapers published in the Town of *Birmingham*.

Premiums on Sales not to be entitled to Dividend.

XXVII. Any Sum of Money received upon any such Sale by way of Premium shall be applied to the Purposes by this Act authorized, and shall not be considered as Part of the Capital of the Company entitled to Dividend.

Dividends on new Shares.

XXVIII. Every Person who becomes entitled to any new Share created under the Powers of this Act shall in respect of the same be a Shareholder in the Company, and shall be entitled to receive Dividends with the other Shareholders in proportion to the whole Amount for the Time being paid up on such Share.

Receipts on behalf of incapacitated Persons.

XXIX. If any Money be payable to any Shareholder, being a Minor, Idiot, or Lunatic, the Receipt of his respective Guardian or Committee shall be a sufficient Discharge to the Company for the same.

Votes of Shareholders.

XXX. At all Meetings of the Company every Shareholder shall be entitled to One Vote for every entire Sum of One hundred and twenty-

twenty-five Pounds paid up by him on his Shares, up to Ten Votes; but no Proprietor shall be entitled to more than Ten Votes in respect of any Shares he may hold.

Limiting Amount of Dividends.

XXXI. With reference to the Clauses of "The Waterworks Clauses Act, 1847," with respect to the Amount of Profit to be received by the Undertakers when the Waterworks are to be carried on for their Benefit, the prescribed Rate of Profits to be divided among the Undertakers in any Year shall be Eight Pounds in the Hundred by the Year on the Capital in the Company for the Time being paid up: Provided always, that to make up the Deficiency of any Dividend which, either before or after the Commencement of this Act, shall have fallen short of the said yearly Rate, a larger Dividend may be made at any Time within but not after Ten Years from the Occurrence of such Deficiency.

Calls on new Shares.

XXXII. No Call to be made upon or in respect of new Shares created under the Powers of this Act or of the secondly herein-before recited Act shall exceed the Rate of Ten Pounds in the Hundred on the Amount of a Share, and the Interval between successive Calls shall be not less than Three Months.

Power to borrow further Amount of Loan authorized by last Act.

XXXIII. And whereas the whole of the Capital by "The *Birmingham* Waterworks (Capital) Act, 1854," authorized to be raised has been subscribed for, and One Half of the entire Capital of the Company by the recited Acts authorized to be raised has been paid up, but the Company have borrowed no Part of the Sum of Thirty thousand Pounds which they were by that Act authorized in the Events which have happened to borrow: Therefore the Company may at any Time and from Time to Time after the Commencement of this Act borrow on Mortgage any Sums not exceeding in the whole, together with the Sums borrowed under the firstly herein-before recited Act, and then remaining due, the Sum of Sixty thousand Pounds.

Power to borrow further Money on Mortgage.

XXXIV. When the whole of the One hundred and eighty thousand Pounds additional Capital of the Company shall be subscribed for, and One Half thereof shall be paid up, it shall be lawful for the Company to borrow on Mortgage any further Sums not exceeding in the whole, together with the Sums previously borrowed by them under the Powers of the recited Acts and this Act, and then remaining due, the Sum of One hundred and five thousand Pounds.

Power to convert Mortgage Debt into Stock.

XXXV. The Company may from Time to Time, with the Consent of Three Fifths of the Votes of the Shareholders present at an Extraordinary Meeting, resolve that any Portion of the Mortgage Debt of the

the Company, not exceeding an Amount to be defined in and by such Resolution, may be converted into Stock of the Company of a like Amount, either by Agreement with the Holders of such Mortgages respectively before the same respectively become due, or by paying off the same respectively when due, and issuing Stock of a corresponding Amount, instead of reborrowing the Sums so paid off, and may also from Time to Time, with the like Consent, resolve that the whole, or any Part, to be defined in and by such Resolution, of the Monies which the Company shall have the Authority to raise by borrowing under the Powers of this Act, and which shall not then have been raised, shall or may be raised by the Creation and Issue of Stock of a corresponding Amount, instead of borrowing the same, and also, with the like Consent, to attach to the Stock so authorized to be created and issued for any of the Purposes aforesaid a fixed and perpetual irredeemable yearly Dividend or Interest, at any Rate not exceeding the Rate of Five Pounds for every One hundred Pounds thereof, payable in equal half-yearly Portions; and it shall thereupon be lawful for the Company to carry into effect such Resolution or Resolutions, by the Creation and Issue of so much Stock as may from Time to Time be necessary for that Purpose, having such fixed Rate of Interest or Dividend as aforesaid, and the Stock so created and issued shall be a Charge upon the Undertaking and Funds of the Company, and such Interest or Dividend shall for ever have Priority of Payment over all other Dividends on any other Stock or Shares of the Company, and the Stock, when so created, shall be termed "The *Birmingham* Waterworks Mortgage Stock:" Provided, that nothing in this Act contained shall in anywise prejudice or affect the Rights of the Holders of Mortgages of the Company; provided also, that after the Conversion of any such Mortgages into Stock it shall not be lawful for the Company to execute Mortgages or issue any other Securities for or again to borrow the Sums so converted, but the Powers of borrowing by the Company shall to the Extent of the Sums so from Time to Time converted into Stock be extinguished.

As to Votes of Holders of Mortgage Stock.

XXXVI. The Holders of such Mortgage Stock shall not be entitled to vote in the Affairs of the Company, unless it shall be otherwise resolved by a Majority of Three Fifths of the Votes of the Shareholders present at an Extraordinary Meeting.

Former Mortgages to have Priority.

XXXVII. All Mortgages granted by the Company before the passing of this Act, and which shall be in force at the Time of the passing of this Act, shall during the Continuance thereof have Priority over all Mortgages to be granted by virtue of this Act.

Arrears may be enforced by Appointment of a Receiver.

XXXVIII. The Mortgagees of the Company may enforce the Payment of the Arrears of Principal and Interest due on their Mortgages by the Appointment of a Receiver; and the Amount of Debt necessary to authorize a Requisition for a Receiver shall be Five thousand Pounds.

Application of Money.

XXXIX. All Money to be raised under the Provisions of this Act, whether by means of Shares or by Exercise of the Powers of borrowing, shall be applied to the Purposes of the Undertaking by this Act authorized, and to no other Purpose.

Application of existing Capital.

XL. All Monies raised by the Company by Shares or borrowing previously to the Commencement of this Act, and then remaining unexpended, may be applied to the Purposes of the Undertaking as by this Act authorized.

Quorum of General Meetings.

XLI. The Quorum for any General Meeting of the Company shall be Shareholders holding Shares of the aggregate nominal Value of Twelve thousand five hundred Pounds at the least.

Extraordinary Meetings of the Company.

XLII. The Number of Shareholders on whose Requisition an Extraordinary Meeting shall be convened shall be Twenty-five Shareholders or more holding Shares upon which the Sum of Ten thousand Pounds at the least shall have been paid up.

Number and Qualification of Directors.

XLIII. The Number of the Directors shall be Nine, and the Qualification of a Director shall be the Possession in his own Right of Shares in the Capital of the Company upon which the Sum of Five hundred Pounds at the least shall have been paid up.

First Directors.

XLIV. The Persons who at the Time of the Commencement of this Act shall be the Directors of the Company shall, if duly qualified according to the Provisions of this Act, continue in Office until the First Ordinary Meeting of the Company in the Year next after the passing of this Act, and shall then and thereafter retire by Rotation, as herein-after provided.

Election and Rotaion of Directors.

XLV. At the First Ordinary Meeting of the Company in every Year One Third of the Directors, being those who have been longest in Office, shall go out of Office, and their Places shall be supplied by an equal Number of qualified Shareholders, to be elected by the Shareholders there present, personally or by Proxy; and the several Persons elected at any such Meeting, being neither removed nor disqualified nor having resigned, shall continue to be Directors until others are elected in their Stead; and every Director retiring from Office may be re-elected immediately or at any future Time, and after such Re-election shall, with reference to going out by Rotation, be deemed a new Director: Provided always, that if at any Time the

the Number of Directors be some Number not divisible by Three, the Directors shall in each Case determine what Number of Directors, being as nearly One Third as may be, shall go out of Office, so that the whole Number shall go out of Office in Three Years.

Quorum of Directors.

XLVI. The Quorum of a Meeting of Directors shall be Four.

Auditors.

XLVII. The Number of the Auditors shall be Three.

Power to make Works.

XLVIII. And whereas Plans and Sections of the intended Works of the Company, showing the Situation, Line, and Levels thereof respectively, and also Books of Reference containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands in or through which the same respectively are intended to be made or pass, have been deposited with the respective Clerks of the Peace for the Counties of *Warwick* and *Stafford*: Therefore, subject to the Provisions and Restrictions in this Act and the incorporated Acts contained, it shall be lawful for the Company to make and maintain the said intended Works in the Lines and Situations, according to the Levels, and upon the Lands delineated on those Plans and Sections and described in those Books of Reference, and to cleanse, scour, deepen, widen, cover over, and protect so much of the *Hawthorn Brook* as lies between the intended Reservoir on *Witton Upper Pools* and the intended Reservoir on *Witton Lower Pools*, and to regulate, appropriate, and use the Waters of that Portion of the said Brook, and to enter upon, take, and use such of the Lands aforesaid as the Company may deem necessary for the Purposes of this Act.

Limiting lateral Deviations.

XLIX. Wherever and so far as the Line of any Work as shown upon the said Plans passes along any Road, and no Limits of lateral Deviation are marked thereon, the Company may, in the Construction of such Work, deviate from the Line of Work as laid down on such Plans to the Extent only of the Boundaries of such Road; and in other Places the Company may, in constructing the said Works, deviate from the Line thereof laid down on the said Plans to the Extent of the Limits of lateral Deviation shown on the said Plans: Provided always, that where no Limit of lateral Deviation is shown on the said Plans between the Line of the intended Works and the *Tame Valley* Canal and the *Birmingham and Fazeley* Canal respectively, no Deviation from that Line shall be made on the Side of or towards those Canals or either of them.

Limit of vertical Deviation.

L. In constructing the said Works the Company may deviate vertically from the Levels thereof as shown on the said Sections to the following Extent, that is to say, as to the Reservoirs herein-before authorized to be constructed, to any Extent not exceeding Three Feet, and as to all other Works to any Extent not exceeding Five Feet.

LI. It

Power to divert Water.

LI. It shall be lawful for the Company, subject to the Provisions of this Act, from Time to Time to divert into and through and collect and store up in their existing and intended Works the Waters of the *Hawthorn Brook*, the *Perry Brook*, and the River *Blythe*, and all Waters which may be found in the Construction of the intended Works, and to draw off, distribute, and supply such Waters for the Purposes of this Act: Provided nevertheless, that it shall not be lawful for the Company or their Assigns to intercept, take, use, or interfere with any Streams or Brooks, or the Waters thereof, flowing into the River *Tame* between a Place called *Castle Bromwich* and a Place called *Water Orton*, nor shall it be lawful for the Company or their Assigns to supply Water to any Canal from the said River *Tame*, or from any other River, Brook, or Stream the Waters of which they are by this Act empowered to take and use.

Reservoir not to be constructed within Fifty Yards of the River Blythe.

LII. Provided always, That, except with the Consent of the Owner for the Time being of *Blythe Hall*, no Part of the Reservoir shown on the said Plans as intended to be constructed near *Blythe Mill* in the Parish of *Shustoke* shall be made so as to approach nearer than Fifty Yards to the said River *Blythe* above the existing Flood Gates belonging to the said Mill, nor shall the said Mill, or the Weir or Floodgates belonging thereto, be purchased or taken by the Company, or otherwise interfered with than by the Abstraction of the Water of the said River *Blythe*.

Water of the River Blythe to be diverted at One Point only, and Level of present Weir to be raised.

LIII. Provided always, That, except with such Consent as aforesaid, it shall not be lawful for the Company to divert the Waters of the said River *Blythe* or any Part thereof, except from some One Place situate above the existing Weir at *Blythe Hall* in the Parish of *Coleshill*, and as near to the said Weir as may be practicable; and the Company shall raise the Level of the said Weir to the Extent of One Inch, and shall take the Waters of the said River at the Level of the present Weir.

Deposit of Earth, &c. in the Valley of the Cole or Blythe restricted.

More than Two Cottages not to be erected on Mr. Dugdale's Estate.

LIV. It shall not be lawful for the Company, except with such Consent as aforesaid, to deposit in either of the Valleys of the *Cole* or *Blythe* any Earth or Spoil which may be obtained by means of any of the Excavations or Works authorized by this Act; nor shall the Company, except with such Consent as aforesaid, erect more than Two Cottages upon the Site of the intended Reservoir or Banks, or on any Lands on the South Side of the *Midland* Railway which they shall take in the Parishes of *Shustoke* or *Coleshill*, which Cottages shall be of such Elevation only as shall have been previously approved of by the said *William Stratford Dugdale*, his Heirs or Assigns.

LV. In

Aqueduct at Salford Bridge.

LV. In no Case shall the Company construct or erect any Works whatever which may injure, hurt, or affect the Aqueduct of the *Birmingham* Canal Navigations situate at or near *Salford Bridge*.

Powers of Waterworks Company limited as regards Interference with the Birmingham Canal Navigations.

LVI. Provided always, That, notwithstanding anything contained in this Act or in any Act incorporated herewith, it shall not be lawful for the Company, without the Consent of the Company of Proprietors of the *Birmingham* Canal Navigations (herein-after called "The *Birmingham* Canal Company"), to acquire any Right or Property in any of the Lands of the said *Birmingham* Canal Company, other than the Right, subject to the Provisions of this Act, of executing the several Works necessary and proper for constructing and maintaining the Works by this Act authorized over, upon, through, or under the Lands of the said *Birmingham* Canal Company, and for repairing the same Works; and such Construction and all such Repairs shall from Time to Time be done to the reasonable Satisfaction of the Engineer for the Time being of the said *Birmingham* Canal Company; and that the said Company shall, on Demand, pay to the said *Birmingham* Canal Company all Expenses reasonably and fairly occasioned to or incurred by them for or by reason of the Construction and Maintenance or Repair of all or any of the Works upon, over, under, or across or by the Side of the said Canals, and the Lands and Works thereof respectively, authorized by this Act or any Act incorporated herewith, or for or by reason of the Inspection by the said *Birmingham* Canal Company of the Construction, Maintenance, and Repair of the same Works.

For Protection of the Company of Proprietors of the Birmingham Canal Navigations.

LVII. If and as often as at any Time hereafter the *Birmingham* Canal Company shall have Occasion to erect any new Bridge, or to raise, rebuild, or alter any existing Bridge belonging to the same Company, over, under, or by the Side of which any Pipes may be carried by the said Waterworks Company, under the Powers of this Act and the Acts incorporated herewith, the Alteration of such Pipes made necessary by the Erection of any such new Bridge, or the raising, rebuilding, or altering of any existing Bridge, shall be made and the Pipes shall be replaced by and at the Expense of the said Company, and the said *Birmingham* Canal Company shall not be liable to make Compensation for any Damage, Loss, or Injury occasioned thereby; but no such Erection, raising, rebuilding, or altering shall be commenced, except in Cases of Emergency, until One Month after Notice of an Intention to erect, raise, build, or alter (as the Case may be) shall have been given by the said *Birmingham* Canal Company to the said Company: Provided always, that it shall not be lawful for the said Company, in exercising any of the Powers of this Act or the Acts incorporated herewith, in any Manner to take away, obstruct, or lessen any Springs, Brooks, Streams, Feeders, Drains, Waters, or Watercourses which now are or heretofore have been

been taken for the Use of the said *Birmingham* Canal Navigations, or which the said *Birmingham* Canal Company are by Law authorized and empowered to take for the Use of the said Canals or any or either of them, or to take away or obstruct or in any Manner impede the free Use of any Communication already made or hereafter to be made between the Waters of the said Canals or any of them and any Steam Engine, or to take away or prejudice the Right of the said *Birmingham* Canal Company, or any Person or Persons, to make such Communication, or to make any other Communication for the Purpose of a Branch Canal, pursuant to the Provisions of the Acts of Parliament for regulating or otherwise relating to the said *Birmingham* Canal Navigations or any of them, and shall lay and maintain their Pipes on such a Level as not to interfere with such Communications.

Penalty in case of Interruption of Traffic on Canal.

LVIII. If, by reason of the Construction of any of the Works hereby authorized to be made upon, over, under, or by the Side of the said Canals respectively, any Interruption shall at any Time be occasioned to the Traffic passing thereon respectively, or if any such Interruption shall be occasioned during any Repairs of the Works of the Company by this Act authorized, or for or by reason of any Want of Repair or due or proper Maintenance thereof, the Company shall forfeit and pay to the *Birmingham* Canal Company the Sum of One hundred Pounds for every Day during which such Interruption shall continue; and the same Sum may be recovered, with full Costs of Suit, by the said *Birmingham* Canal Company, in any Court of competent Jurisdiction.

Saving Rights of the Birmingham Canal Company.

LIX. Except as is herein expressly provided, nothing herein contained shall extend or be construed to prejudice, diminish, alter, or take away any of the Rights, Powers, or Authorities of or belonging to or vested in the *Birmingham* Canal Company.

Provisions of 10 & 11 Vict. c. 17. as to breaking up Roads to extend to the Birmingham, WatfordGap, and Kingsbury Turnpike Roads.

LX. All the Clauses and Provisions contained in the "Waterworks Clauses Act, 1847," relating to the opening or breaking up of Streets, and laying down and placing Pipes, Conduits, and other Works in and under such Streets, shall extend to and apply to the opening or breaking up by the Company of the *Birmingham*, *Watford Gap*, and *Kingsbury* Turnpike Roads, and the laying down and placing of Pipes, Conduits, and other Works in and under the said Roads, and to the existing Works of the Company.

Provision as to waste Water thrown upon the Roads.

LXI. Where any Plugs now are or shall be inserted by the Company in any Part of the said Roads, the Company shall, when required by the said Trustees, pave the Roads a Distance of Three Feet around the same on every Side, and shall make effectual covered Drains

Drains from the said Plugs under the said Roads, so that the surplus or waste Water flowing out of the said Plugs shall be well and effectually conveyed by means of such covered Drains into Ditches or Drains on the Sides of the said Roads, and shall not flow over the Surfaces thereof.

Works to be constructed so as not to interfere with Culverts under the Tame Valley Canal.

LXII. The Works by this Act authorized shall be so constructed as not in any Manner to interfere with the free Flow of Water through the Culverts passing under the *Tame Valley* Canal at or near the present *Mill Pool* numbered 2 in the Township of *Perry Barr* on the Plans deposited as aforesaid, and so as effectually to prevent Obstruction thereto by the backing up of Water or otherwise howsoever.

Company to remove Mill, &c. in Perry Barr.

LXIII. The Company shall purchase, take down, and absolutely remove the Mill House, Stable, Cottage, and Buildings numbered 12, 14, and 15 in the Township of *Perry Barr* on the Plans deposited as aforesaid.

Company restrained from erecting certain Buildings on the Perry Hall Estate.

LXIV. It shall not be lawful for the Company, in the Execution of this Act, to take or use any Portion of the *Perry Hall* Estate for the Purposes of temporary Occupation, or to erect any Steam Engine on any Part of the said Estate, or to erect more than Two Dwelling Houses thereon; and previous to the Erection of either or both of such Dwelling Houses the Plans and Elevations thereof shall be submitted to and be approved of by the Owner or Owners for the Time being of the said Estate.

Company to provide Watering Places for Cattle.

LXV. The Company shall provide and for ever maintain proper Watering Places for Cattle in the Fields numbered 5, 6, 7, and 10 in the Township of *Perry Barr* on the Plans deposited as aforesaid.

Company not to impede the Drainage of Lands.

LXVI. It shall not be lawful for the Company in any Manner or to any Extent to impede the good and efficient Drainage of any of the Lands belonging to the said *Perry Hall* Estate; and in all Cases where the Company shall interfere with any Drain made or used for the Drainage of any of the said Lands, they shall make another Drain as good and sufficient in all respects for the proper Drainage of such Lands as the Drain so proposed to be interfered with, or shall restore the original Drain to the Satisfaction of the Owners or Occupiers of the said Lands.

Regulations as to taking Water from the River Blythe.

LXVII. For the Purpose of enabling the Earl of *Bradford* and *Abel Rollason*, or others the Owners for the Time being of certain Mills on the River *Tame* now belonging to them respectively, and known by the Names of *Castle Bromwich* and *Water Orton* otherwise *Minworth*

Minworth Mills and *Bromford* Mills, more effectually to ascertain the Quantity of Water taken or abstracted by the Company or their Assigns from the said River *Tame*, the *Hawthorn Brook*, and such other Streams and Brooks as aforesaid, the Company or their Assigns, before they shall take any Water out of the River *Blythe*, shall provide, construct, and fix proper Regulators or Counters and other necessary Machinery on the Beams of any Engines which may be erected by them for pumping or raising Water out of the River *Blythe*, for the Purpose of ascertaining and keeping an Account of the Quantity of Water pumped or raised out of the said River; and the Regulators, Counters, or other Machinery shall be provided, constructed, and fixed to the reasonable Satisfaction of the Earl of *Bradford* or other the Owner for the Time being of certain Mills on the River *Tame* called respectively *Castle Bromwich* and *Water Orton* otherwise *Minworth* Mills, and of *Abel Rollason* or other the Owner for the Time being of certain other Mills on the River *Tame* called *Bromford* Mills, and shall at all Times be kept in good and efficient Repair by the Company or their Assigns; and the said Earl and the said *Abel Rollason*, or other the Owners for the Time being of the said Mills respectively, and their respective Agents and Servants, shall be at liberty at all Times when the said Engines are working, and at all other reasonable Times, to enter into and upon the said Engines and other Premises of the Company or their Assigns, to inspect the said Engines, and the Regulators, Counters, and Machinery so to be provided, constructed, and fixed as aforesaid, and to ascertain the State of Repair and Efficiency of the same, and the Quantity of Water raised or pumped out of the said River *Blythe* by the Company or their Assigns.

Company not to divert, &c. any River, &c. in the Lands of Sir T. Gooch, &c. without Consent.

LXVIII. Nothing in this Act contained shall extend or be construed to extend to authorize or empower the Company, their Agents, Workmen, or Servants, to use or divert, turn away, injure, or in any Manner interfere with, any River, Brook, Bath, Spring of Water, Well, Reservoir, or Watercourse arising, flowing, or being within or under any Part or Parts of the Lands or Grounds of Sir *Thomas Gooch* of *Benacre Hall* in the County of *Suffolk*, Baronet, *Thomas Bower*, *George Holmes*, *Thomas Beal*, *George Jones*, or *George Mills Ryder*, situate within the Parish of *Saint Martin* in *Birmingham*, or of *George* Lord *Calthorpe* in the Parish of *Edgbaston* in the County of *Warwick*, their respective Heirs, Executors, Administrators, or Assigns, or to intercept or divert the Course of any Water or Waters flowing into any such River, Brook, Bath, Well, or Reservoir, or by which any such River, Brook, Bath, Well, or Reservoir may be supplied or fed, or to enter upon, dig, or break up the Soil of any Part or Parts of the said Lands or Grounds, or to sink, lay, or construct any Mains, Pipes, or other Works in, upon, or under the same, without the Licence and Consent

Consent in Writing of the said Sir *Thomas Gooch*, *Thomas Bower*, *George Holmes*, *Thomas Beal*, *George Jones*, *George Mills Ryder*, and Lord *Calthorpe*, their respective Heirs, Executors, Administrators, or Assigns, under their respective Hands for that Purpose first had and obtained, anything herein contained to the contrary notwithstanding.

Compensation to Mill Owners and Occupiers.

LXIX. The Company shall make full Compensation and Satisfaction to the Owners and Proprietors of the said River *Tame* and the said Brook called *Hawthorn Brook*, and of any Brook or Stream supplied therefrom respectively, and also to the Owners and Proprietors of any Mills, Messuages, Lands, and Hereditaments, situate and being on the said River or Brook, or any such other Brook or Stream, for any Loss or Injury they may sustain by any Water being altogether or partially diverted from the said River or Brook, or any such other Brook or Stream, or otherwise.

For Protection of Midland Railway.

LXX. In executing the Works hereby authorized the Company shall not deviate the Line thereof as shown on the said Plans where the same passes under the *Midland* Railway in the Parish of *Coleshill* in the County of *Warwick* without the Consent of the *Midland* Railway Company under their Common Seal first had and obtained; and in executing the said Works the Company shall in no way injure any of the Works of the said Railway, or obstruct or impede the Traffic thereof, and shall not, without the Consent of the said *Midland* Railway Company under their Common Seal first had and obtained, take or use any of the Land or Works of the said Railway, except only fort he Purpose of carrying their Main Pipe under the said Railway as shown on the said Plans; and the Works to be executed for that Purpose at the Expense of the Company shall be performed under the Direction and to the reasonable Satisfaction of the principal Engineer of the said *Midland* Railway Company, and according to Plans to be previously submitted to and approved by him for that Purpose.

Saving Rights of Midland Railway Company.

LXXI. Except for the Purpose of executing the Works necessary for the Construction and Repair of such Main Pipe, nothing herein contained shall alter, diminish, take away, or affect any of the Powers, Rights, and Privileges of the *Midland* Railway Company.

Restrictions may be imposed on Sale of superfluous Property.

LXXII. Upon any Sale by the Company, under the Provisions of "The Lands Clauses Consolidation Act, 1845," relating to superfluous Lands, of any Mills, Lands, or Hereditaments purchased by them under the Powers of this Act, the Company may reserve to themselves all or any Part of the Water and Water Rights and other

Easements thereunto belonging, and may sell such Mills, Lands, and Hereditaments, subject to such Reservation, and also subject to such special Conditions, Restrictions, and Provisions with reference to Use of Water, and for preventing the Exercise of noxious Trades or Businesses upon the Premises, and for preventing or regulating the Discharge and Deposit of Manure, Sewage, and other impure Matter and Liquids, as they may think fit.

Company's Furnaces to consume their own Smoke.

LXXIII. The Furnace of every Steam Engine erected by the Company after the passing of this Act shall be so constructed as to consume the Smoke arising from the Combustibles used in such Furnace; and the Furnace of every Steam Engine existing at the Time of the passing of this Act, not so constructed as to consume the Smoke of such Furnace, shall, within the Period of Two Years after the passing of this Act, be so altered in its Construction as to consume such Smoke; and if after such Period the Company shall use any Furnace not so constructed as aforesaid, or if at any Time the Company shall use any Furnace constructed after the passing of this Act, and not so constructed as aforesaid, or so negligently use any such Furnace as not to consume the Smoke arising from the Combustibles used therein, they shall be liable to a Penalty of Forty Shillings for every Day during any Part of which such Furnace or Fireplace shall be so used and continued.

Works not to be subject to Commissioners of Sewers.

LXXIV. The Waterworks, Aqueducts, Reservoirs, and Feeders of the Company shall not be subject to or under the Control, Direction, Survey, or Order of any Commissioners of Sewers, or to any Law or Statute relating to Sewers.

Period for compulsory Purchases limited.

LXXV. The Powers of the Company for the compulsory Purchase of Land for the Purposes of this Act shall not be exercised after the Expiration of Three Years from the Commencement of this Act.

Period for Completion of Works.

LXXVI. As to so much and such Part of the new Works herein-before authorized to be constructed as may be situate on or near to the River *Blythe*, and the Aqueduct, Conduit, or Line of Pipes from thence to the existing Reservoir of the Company at *Aston*, and the Works and Conveniences connected therewith, on the Expiration of Seven Years from the Commencement of this Act, and as to all the other new Works herein-before authorized to be constructed, on the Expiration of Three Years from the Commencement of this Act, the Powers by this Act and the incorporated Acts granted to the Company for the Construction of the same or otherwise in relation thereto shall cease to be exercised, except as to so much of those Works as shall then be completed, and except the scouring, cleansing, and

protecting

protecting of the aforesaid Portion of *Hawthorn Brook*: Provided always, that nothing in this Act contained shall extend or be construed to restrain the Company from extending their Mains and Pipes from Time to Time, whenever it shall be necessary, for the Purpose of supplying the Inhabitants and other Persons within the Limits of this Act with Water.

Land for extraordinary Purposes.

LXXVII. The Company may from Time to Time, by Agreement, purchase or take for the Purposes of this Act any Quantity of Land not exceeding Ten Acres, and in addition to the Land vested in them by this Act and the Land which they are by this Act authorized to take by Compulsion.

Power to make Grants in perpetuity.

LXXVIII. The Persons empowered by the said Lands Clauses Consolidation Act to convey Lands shall have full Power to grant to the Company, for the Purposes of this Act, any Lands or Streams, or the Right of User thereof, or any Easement, Liberty, Privilege, Power, or Authority in or over the same, in perpetuity, in consideration of an annual Rent.

Grants by Persons under Disability to be at best Rent.

LXXIX. In any such Grant to be made by any Party under any Disability or Incapacity to sell and convey Lands, as defined by "The Lands Clauses Consolidation Act, 1845," there shall be reserved the best or most usual yearly Rent or Remuneration for or in respect of the Premises thereby granted, and no Fine, Premium, or Foregift shall be paid upon or in respect of such Grant, such Rent or Remuneration being not less than shall be determined by Two able practical Surveyors, or their Umpire, in accordance with the Provisions of "The Lands Clauses Consolidation Act, 1845," with respect to the Purchase of Lands by Agreement: Provided always, that the Company may at any subsequent Period purchase the Release or Discharge of the Rent or Remuneration, Covenants and Stipulations, reserved by and contained in any such Grants.

Limits of Act for Water Supply.

LXXX. The Limits of this Act for the Supply of Water by the Company shall comprise the Town of *Birmingham* and the several Parishes, Hamlets, or Places of *Birmingham*, *Aston*, *Duddeston*, *Duddeston* and *Nechells*, and *Edgbaston* in the County of *Warwick*.

Water not necessarily under Pressure.

LXXXI. The Water to be supplied need not be constantly laid on under a greater Pressure than the Works of the Company will supply.

LXXXII. All

Pipes to be 18 inches below Surface.

LXXXII. All Pipes to be laid by the Company under any Street shall be laid at least Eighteen Inches below the Surface thereof.

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

LXXXIII. 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 is or shall be laid, or on the Application of any Person who under the Provisions of this Act is entitled to demand a Supply of Water for domestic Purposes, furnish to such Owner or Occupier or other Person a sufficient Supply of Water for domestic Use, at Rates not exceeding the yearly Rates herein-after specified; (that is to say,)

Where the annual Rent of the House or Part of a House or Premises supplied shall not exceed Five Pounds, the yearly Rate of Six Shillings;

Where the annual Rent shall exceed Five Pounds and shall not exceed Seven Pounds Ten Shillings, the yearly Rate of Eight Shillings;

Where the annual Rent shall exceed Seven Pounds Ten Shillings and shall not exceed Ten Pounds, the yearly Rate of Ten Shillings and Fourpence;

Where the annual Rent shall exceed Ten Pounds and shall not exceed Twelve Pounds Ten Shillings, the yearly Rate of Sixteen Shillings and Ninepence;

Where the annual Rent shall exceed Twelve Pounds Ten Shillings and shall not exceed Fifteen Pounds, the yearly Rate of One Pound Four Shillings;

Where the annual Rent shall exceed Fifteen Pounds and shall not exceed Seventeen Pounds Ten Shillings, the yearly Rate of One Pound Eleven Shillings;

Where the annual Rent shall exceed Seventeen Pounds Ten Shillings and shall not exceed Twenty Pounds, the yearly Rate of One Pound Eighteen Shillings;

Where the annual Rent shall exceed Twenty Pounds and shall not exceed Twenty-five Pounds, the yearly Rate of Two Pounds Four Shillings and Sixpence;

Where the annual Rent shall exceed Twenty-five Pounds and shall not exceed Thirty Pounds, the yearly Rate of Two Pounds Nine Shillings and Sixpence;

Where the annual Rent shall exceed Thirty Pounds and shall not exceed Thirty-five Pounds, the yearly Rate of Two Pounds Fourteen Shillings;

Where the annual Rent shall exceed Thirty-five Pounds and shall not exceed Forty Pounds, the yearly Rate of Two Pounds Seventeen Shillings;

Where the annual Rent shall exceed Forty Pounds and shall not exceed Fifty Pounds, the yearly Rate of Three Pounds; and

Where such annual Rent shall exceed Fifty Pounds, at a Rate not exceeding Six Pounds *per Centum* on the Amount of such annual Rent.

What shall not be deemed domestic Purposes.

LXXXIV. A Supply of Water for domestic Purposes shall include a Supply for One Watercloset, but not for Baths, or for Cattle, or for Horses, or washing Carriages, where such Horses or Carriages are kept for Hire or by Common Carriers, or for any Trade, Manufacture, or Business whatsoever, or for watering Gardens, or for Fountains, or for any ornamental Purpose.

Rates for Watercloset.

LXXXV. In addition to the Rates for the Supply for domestic Purposes, the Company may demand and receive for every additional Watercloset beyond the first in any House any yearly Sum not exceeding Four Shillings.

For preventing fouling Water.

LXXXVI. Provided always, That the Company shall not be compellable to supply with Water any Watercloset or any private Bath, or the Apparatus or Pipes connected therewith respectively, unless the same 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 or noisome and impure Matter into the Mains or Pipes belonging to or connected with the Mains or Pipes of the Company.

Water Supply by Agreement.

LXXXVII. The Company from Time to Time may supply any Person with Water for any Purposes for which no specific Rates are by this Act limited, for such Remuneration and upon such Terms and Conditions as shall be agreed on between the Company and the Person desirous of having the Supply.

Penalty for using Water for other than domestic Purposes without Agreement.

LXXXVIII. Every Person using for other than domestic Purposes any Water supplied by the Company, and not having previously agreed with the Company for a Supply for such other Purposes, and every Person having agreed with the Company for a Supply of Water for any other than domestic Purposes and using for any Purposes other than the Purposes so agreed on the Water so supplied by the Company, shall respectively for every such Offence forfeit and pay to the Company any Sum not exceeding Five Pounds.

Recovery of Sums not exceeding 50*l.*

LXXXIX. Whenever any Person neglects to pay any Rate or Sum due to the Company, and such Rate or Sum do not exceed Fifty

Fifty Pounds, the Company may recover the same, with full Costs of Suit, in any Court of competent Jurisdiction, and the Remedies of the Company under this Enactment shall be in addition to their other Remedies for the Recovery of such Rate or Sum.

Undisputed Rates, &c. may be recovered by Distress.

XC. All Water Rates or Rents due to the Company, and all Damages, Costs, and Expenses by this Act or any Act incorporated herewith directed to be paid, and the Amount whereof shall not be disputed, may be levied by Distress; and any Justice on Application may issue his Warrant accordingly.

Several Names in One Warrant.

XCI. Any Number of Names and Sums may be included in any Warrant of Distress or Notice obtained or given by the Company for any of the Purposes of this Act, and may be stated either in the Body of the Warrant or Notice or in a Schedule thereto.

Costs of Distress.

XCII. Any Justice who issues any such Warrant of Distress may order that the Costs of the Proceedings for the Recovery of such Rate or Sum shall be paid by the Person liable to pay such Rate or Sum; and such Costs shall be ascertained by the Justice, and shall be included in the Warrant of Distress for the Recovery of such Rate or Sum.

Provision for settling the Terms of Supply of Water under Sect. 37. of 10 & 11 Vict. c. 17.

XCIII. That in case the Mayor, Aldermen, and Burgesses of the Borough of *Birmingham*, acting by the Council of the Borough, under the Provisions of "The *Birmingham* Improvement Act, 1851," shall be unable to agree as to the Terms and Conditions for the Supply of Water to be afforded by the Company under the Provisions of the Thirty-seventh Section of "The Waterworks Clauses Consolidation Act, 1847," the same shall not be settled by Two Justices, as therein provided, but shall be settled under the Powers of "The Lands Clauses Consolidation Act, 1845," relating to the Purchase of Lands otherwise than by Agreement.

Future Works of Company for Three Years to be approved by Surveyor of the Borough of Birmingham.

XCIV. And whereas, under the Powers of "The *Birmingham* Improvement Act, 1851," the Council of the Borough of *Birmingham* on the Seventh Day of *March* One thousand eight hundred and fifty-four gave Notice to the Company of their Intention to purchase the then existing Waterworks of the Company at the Expiration of Twelve Calendar Months, and it is expedient that certain new Works be carried out by the Company in manner herein-after mentioned: Therefore, during the Period of Three Years from the passing of "The *Birmingham* Waterworks (Capital) Act, 1854," all new Works for the Purpose of supplying Water within the Limits of this Act, other

other than and except the Waterworks which the Company are hereinbefore authorized to construct, according to the Plans and Sections deposited with the Clerks of the Peace of the Counties of *Stafford* and *Warwick* respectively, shall be carried out by the Company under the Superintendence of the Engineer of the Company, but before any such new Works shall be commenced the Company shall give Notice of their Intention to carry into effect such new Works to the Surveyor of the Borough; and it shall be lawful for the Surveyor of the Borough, if he shall disapprove of any such Works, or the Mode of carrying them into effect, to give Notice thereof to the Company; and in case of any such Disagreement between the said Engineer and the said Surveyor as to the Propriety of any such Works, or the Mode of carrying them into effect, an Application may be made by the Company or the said Council to the Board of Trade to appoint an Umpire, whose Decision thereon shall be final, and the Costs, Charges, and Expenses of such Umpire shall be paid as the Board of Trade shall direct.

Provision in case of Purchase of Waterworks by Corporation.

XCV. If the Council of the Borough of *Birmingham*, under the Powers of "The *Birmingham* Improvement Act, 1851," shall within Two Years from the Seventh Day of *March* One thousand eight hundred and fifty-four purchase the Waterworks of the Company, then and in such Case, in estimating the Amount of the Purchase Money for the said Waterworks, the Amount to be paid to the Company in respect of any new Shares created under the Powers of the lastly-recited Act shall be estimated as if such new Shares constituted a Stock entitled only to Six Pounds *per Centum per Annum* Dividend.

Power for Justices to order Repair of Reservoirs, and in certain Cases to direct the Water therein to be lowered.

XCVI. And in order to provide against Accidents to Life or Property by the bursting of any Reservoir of the Company, be it enacted, That whenever it shall be represented to Two Justices of the Peace, met and acting together for the County or Borough in which any such Reservoir is situate, by the Owners or Occupiers of any Dwelling House, Mill, Factory, or other Works situate below such Reservoir as aforesaid, and so as to be in danger of being destroyed or injured by the Water of such Reservoir in case it should escape therefrom, that such Reservoir is in a dangerous State, such Justices shall forthwith make Inquiry into the Truth of such Representation, and if they shall be satisfied that such Reservoir is in a dangerous State they shall, by Writing under their Hands, order and require the Company, within a Time to be specified in such Writing, to put such Reservoir into a proper State of Repair, or construct such Works as may be necessary to remove the Danger; and in case the Company shall not within the Time so limited, and to the Satisfaction of the

Justices

Justices who shall have made such Order, or of any Two Justices of the Peace for such County or Borough met and acting together, have repaired the said Reservoir or constructed the said Works, or in case, upon receiving such Representation as aforesaid, the Justices shall consider the Danger to be so imminent as not to admit of Delay, they may, if they shall think fit, by Writing under their Hands, order and direct the Officer in charge of such Reservoir, or any other Person or Persons whom they may think proper, to enter upon the Premises of the Company, and to open the Sluices of such Reservoir, or otherwise to let off so much of the Water from such Reservoir and to such a Level as may be necessary to remove the Danger, and to keep the Water in such Reservoir at the reduced Level until the said Reservoir shall have been repaired, or such Works as aforesaid shall have been constructed to the Satisfaction of the Justices who shall have made such Order, or any other Two Justices of the Peace for the said County or Borough, met and acting together, and who shall signify their Satisfaction by Writing superseding such Order, or until such Order shall be superseded upon Appeal, as hereafter mentioned; and such Order may be in the Form or to the Purport and Effect following; (that is to say,)

'To *A. B.*

'WE, the undersigned, Two of Her Majesty's Justices of the
' Peace acting in and for the County or Borough of
' do hereby order and direct you, and such Person or Persons as you
' may require to aid and assist you herein, forthwith to do all such
' Acts as may be necessary to lower the Water in a certain Reservoir
' known as the Reservoir, by the Space of
' Feet or thereabouts, and to keep the same at that Level until
' you shall be further instructed by us, or by Two other Justices
' of the Peace acting in and for the said County or Borough; and
' you shall do as little Injury as possible to the Property of the
' Company of Proprietors of the Birmingham Waterworks; and
' in acting in obedience to the Premises this shall be your sufficient
' Warrant.

' Given under our Hands, this Day of One
' thousand eight hundred and

' (Signed) *C. D.*
' *E. F.*'

And no Person acting under and in pursuance of such Order shall be deemed a Trespasser; and any Person who shall obstruct or prevent such Person in the Discharge of such Order, or shall wilfully do any Act in contravention of such Order, shall for every such Offence be liable to a Penalty not exceeding Fifty Pounds: Provided always, that, except when the Urgency of the Case will not admit of the Delay, the Justices, before making an Order to repair any such Reservoir,

Reservoir, or to construct any Works as aforesaid, or to lower the Water in any such Reservoir, shall cause Notice to be given to the Secretary of the Company, and shall hear and consider any Evidence that may be tendered on behalf of the Company against the making of such Order: Provided also, that if the Company shall consider themselves aggrieved by any such Order they may appeal against the same to the General or Quarter Sessions of the Peace for the County of *Warwick* and the County of *Stafford*, or to the General or Quarter Sessions of the Peace for the Borough of *Birmingham*, upon giving to the Justices who shall have made such Order Three Weeks Notice in Writing of the Grounds of such Appeal; and the Court of Quarter Sessions shall hear and determine such Appeal, and may either confirm or supersede the Order of the said Justices, as they may think proper; but until such Order shall be superseded it shall continue in full Force; and all the Costs, Charges, and Expenses of applying for, obtaining, and enforcing such Order shall be borne by the Company, unless the Justices making the Order shall direct such Costs, Charges, and Expenses, or a proportionate Part of them, to be borne by the Parties applying for such Order, which they are hereby authorized to do; and the Costs of any such Appeal as aforesaid shall be in the Discretion of the said Court of Quarter Sessions.

Company not to be liable for Consequences of such Orders.

XCVII. Provided always, That the Company shall not be liable to pay to any Persons any Damages, Penalties, Costs, Charges, or Expenses for or in respect of or be answerable or accountable to any Persons for any Diminution or Cessation of the Supply of Water, or any other Breach or Nonperformance of their or any of their Duties, Liabilities, or Obligations under this Act or the recited Acts, or either of those Acts, which may be occasioned in or by or result from the Execution of any such Order as aforesaid, anything in this Act or the Acts incorporated herewith, or the said recited Acts or either of them, to the contrary notwithstanding.

Certain Agreements not to be affected.

XCVIII. Neither the Repeal of the recited Acts, nor anything in this Act contained, shall in any way prejudice, alter, or affect Two several Agreements bearing Date the Sixth Day of *April* One thousand eight hundred and twenty-six, and made in anticipation of the passing of the said first-recited Act, the one of such Agreements being between the Right Honourable *George Augustus Frederick Henry* Earl of *Bradford* of the one Part, and the several Persons therein named, being the Treasurer and Three of the Sub-Committee of the then intended *Birmingham* Waterworks Company, of the other Part, and the other of such Agreements being between *Abraham Spooner Lillingston* of the one Part, and the several

Persons therein named, being the Treasurer and Three of the Sub-Committee of the then intended *Birmingham* Waterworks Company of the other Part.

Expenses of Act.

XCIX. All the Costs, Charges, and Expenses of and incident to the Application for and passing of this Act shall be paid by the Company.

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