CHAPTER cxxi.

An Act for re-incorporating and conferring further Powers upon the Company of Proprietors of the Colchester Waterworks for the raising of Capital; and for other purposes. A.D. 1879.

[3d July 1879.]

WHEREAS by an Act passed in the forty-eighth year of the reign of King George the Third (in this Act called "the Act of 1808"), the Company of Proprietors of the Colchester Waterworks were incorporated and empowered to construct works for supplying and to supply water within the several parishes and townships of All Saints, Saint Botolph, Saint Giles, Saint James, Saint Leonard, Saint Martin, Saint Mary's at the Walls, Saint Mary Magdalen, Saint Nicholas, Saint Peter, Saint Runwald, Lexden, and Holy Trinity, in the borough of Colchester in the county of Essex: 48 G. 3. c. cxxxvii.

And whereas the population of the said several parishes and townships, and of the adjoining parishes within the said borough, has very largely increased since the passing of the Act of 1808:

And whereas the said Company of Proprietors of the Colchester Waterworks have acquired lands and constructed works, and have raised and expended from time to time in and about the same, and in providing a supply of water to the borough, townships, and parishes before mentioned, considerable sums of money in addition to the capital authorised to be raised by the Act of 1808:

And whereas the said Company of Proprietors are willing, and it is expedient that the Act of 1808 should be repealed, and that the said Company should be dissolved and re-incorporated under another name, with the powers and under and subject to the obligations conferred and imposed by the Waterworks Clauses Acts, 1847 and 1863: 10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93.

And whereas it is expedient that the maximum charges to be made by the Company (herein-after referred to as "the Company") to be formed upon the dissolution and re-incorporation of the said

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Company of Proprietors of the Colchester Waterworks for the supply of water by them should be limited, as by this Act provided:

And whereas it is expedient that the limits for the supply of water by the Company should be extended, and should include the whole of the municipal borough of Colchester:

And whereas it is expedient that the Company be empowered to raise further moneys for the purposes of their undertaking:

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Colchester Waterworks Act, 1879.

Incorporation of general Acts.
8 & 9 Vict. c. 16.
26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

2. The Companies Clauses Consolidation Act, 1845, 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,) the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking,) and the Waterworks Clauses Acts, 1847 and 1863, shall (so far as the same shall be applicable, and except where expressly varied by this Act) be incorporated with and form part of this Act, and shall apply to the Company and to their undertaking as if the same had been authorised by this Act; and the Acts or parts of Acts so incorporated are in this Act referred to as the incorporated Acts.

Interpretation of terms.

3. In this Act—

The several words and expressions to which meanings are assigned by the incorporated Acts shall have the same respective meanings:

"The waterworks" shall mean the waterworks and the works connected therewith of the Company;

"The urban sanitary authority" shall mean the urban sanitary authority of the borough of Colchester;

"The undertaking" shall mean the waterworks and all lands and other property by this Act vested in the Company, and shall include any enlargements and extensions of the waterworks;

"Superior courts" or "courts of competent jurisdiction," or any other like expression in this Act or the incorporated

Acts, 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; unless in any of the before-mentioned cases there be something in the subject or context repugnant to such construction.

Limits of Act for supply of water.

4. The limits for the supply of water by the Company shall comprise the municipal borough of Colchester, in the county of Essex.

Dissolution and re-incorporation of Company.

5. From and after the passing of this Act, the said Company of Proprietors of the Colchester Waterworks shall be dissolved, and the several persons who immediately before the passing of this Act were members of that Company, and all other persons and corporations who from time to time become entitled to stock or shares in the capital of the Company, and their executors, administrators, successors, and assigns respectively, shall be and they are hereby united into a company for the purpose of making and maintaining waterworks, and supplying and selling water, and carrying on the business of a waterworks company, and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of "The Colchester Waterworks Company," and by that name shall be one body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of their undertaking.

Waterworks, &c. vested in Company.

6. Subject to the provisions of this Act, all the lands, waterworks, erections, buildings, and other property and works, rights, and easements which immediately before the passing of this Act were vested in the said Company of Proprietors of the Colchester Waterworks (herein-after called "the dissolved Company"), or any person in trust for them, or of or to which the dissolved Company were seised, possessed, or in any way entitled at law or in equity or otherwise howsoever; and all mains and pipes, plant, hydrants, plugs, meters, syphons, engines, machinery, apparatus, stock, effects, matters, and things which have been by them purchased, provided, laid down, erected, or placed in any place or house within the limits of this Act, or which immediately before the passing of this Act were the property of the dissolved Company, and all moneys, securities, credits, effects, and other property whatsoever, which immediately before the passing of this Act belonged to the dissolved Company, or to any trustee on their behalf, and the benefit of all contracts and engagements entered into by or on behalf of the dissolved Company, and immediately before the passing of this Act in force, shall be and the same are hereby vested in the Company to the same extent and for the same

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estate and interest as the same were previously to the passing of this Act vested in the dissolved Company, or any trustee on their behalf, and may, according to the provisions of this Act, be held and enjoyed, sued for and recovered, maintained, altered, discontinued, removed, dealt with, and disposed of by the Company as they think fit.

Repeal of 48 G. 3. c. cxxxvii.

7. The Act of 1808 shall be and the same is hereby repealed; but nothing in this Act contained shall release or discharge any person from any liability or obligation in respect of any breach of the provisions of the said Act incurred before the passing of this Act, but such liability or obligation in respect of any such breach shall continue, and may be enforced by or on behalf of the Company, as nearly as may be in like manner as the same might have been enforced by or on behalf of the dissolved Company if this Act had not been passed.

General saving of rights.

8. Except as is by this Act otherwise expressly provided, everything before the passing of this Act done or suffered by or with reference to the dissolved Company shall be as valid as if the Company had not been incorporated and the Act of 1808 had not been repealed, and such incorporation and repeal 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 Company were not incorporated and the Act of 1808 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 and its shareholders and property shall to all intents and purposes represent the dissolved Company, and the members thereof as such, and the property of the dissolved Company, as the case may be, and the generality of this enactment shall not be restricted by any of the other clauses and provisions of this Act.

Actions, &c. not to abate.

9. Nothing in this Act shall release, discharge, or suspend any action, suit, or other proceeding at law or in equity which was pending by or against the dissolved Company immediately before the passing of this Act, but every such action, suit, or other proceeding may be maintained, prosecuted, or continued by or in favour of or against the Company in the same manner and as effectually and advantageously as the same might have been maintained, prosecuted, or continued by or in favour of or against the dissolved Company if this Act had not been passed, the Company being in reference to the matters aforesaid in all respects substituted for the dissolved Company.

Water rents, &c. to be paid.

10. All water rates or rents, and sums of money which immediately before the passing of this Act were due or accruing to the dissolved Company shall be payable to and collected and recovered by the Company in like manner as if they had become payable for the like matters supplied or done under this Act.

Debts to be paid.

11. All persons who immediately before the passing of this Act owed any money to the dissolved Company, or to any person on their behalf, shall pay the same with all interest (if any) due or accruing upon the same to the Company, and all debts and moneys which immediately before the passing of this Act were due or recoverable from the dissolved Company, or for the payment of which the dissolved Company were or but for the passing of this Act would be liable, shall be paid with all interest (if any) due or accruing upon the same by or be recoverable from the Company.

Capital.

12. The paid-up capital of the Company at the passing of this Act (herein-after called "the original capital") shall be deemed to be thirty-five thousand pounds, and is by this Act converted into stock, and shall be divided amongst and vested in the several persons who immediately before the passing of this Act were the holders of the capital of the dissolved Company, in proportion to their respective holdings of that capital, and every portion of such stock so vested shall be subject and liable to the same trusts, powers, provisoes, declarations, agreements, charges, liens, and incumbrances as immediately before the passing of this Act affected the share or shares in the dissolved Company in respect of which such portion of stock is so appropriated and vested, and so as to give effect to and not to revoke any testamentary disposition of or affecting the same; and the Company shall call in and cancel the existing certificates of shares in the dissolved Company, and issue in lieu thereof to every stockholder a certificate stating the amount of stock to which he is entitled; but the holders of such existing certificates of shares shall not be entitled to any stock certificate until they shall have delivered up to the Company to be cancelled the share certificates issued to them before the passing of this Act, or shall have proved to the reasonable satisfaction of the directors of the Company the loss thereof; and subject to the provisions of this Act, and except as by this Act otherwise expressly provided, the provisions of the Companies Clauses Consolidation Act, 1845, with respect to the consolidation of shares into stock, shall extend and apply to the stock into which the original capital is by this Act converted.

Voting at general meetings.

13. At all general meetings of the Company every proprietor shall have one vote for every one hundred pounds of shares or stock

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held by him, but any part of the capital of the Company less than one hundred pounds shall not confer on any person any right of attending or voting at meetings of the Company.

Ordinary meetings.

14. The first ordinary meeting of the Company shall be held within six months after the passing of this Act, and the subsequent ordinary meetings of the Company shall be held in every year in the month of July or August at the principal office of the Company, or at such other place as the directors may appoint.

Number of directors.

15. The number of the directors shall be three.

Qualification of directors.

16. The qualification of a director shall be the possession in his own right of stock or shares paid up to the amount of not less than one thousand pounds.

Quorum of directors.

17. The quorum of a meeting of directors shall be two.

First directors.

18. Peter Schuyler Bruff, George Josselyn, and Edmund Thomas Bruff shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the proprietors present in person or by proxy may either continue in office the directors appointed by this Act or any of them, or may elect a new body of directors, or directors to supply the places of those not continued in office, the directors appointed by this Act being (if qualified) eligible for re-election; and at the ordinary meeting to be held in every year after the first ordinary meeting the proprietors present in person or by proxy shall elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of the Companies Clauses Consolidation Act, 1845, and the several persons elected at any such meeting, being neither removed or disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead, in manner provided by the same Act.

Election of directors.

Constant pressure, &c.

19. Water supplied by the Company under this Act need not be constantly laid on under pressure.

Power to cut off water.

20. If any person supplied with water by the Company wilfully do or knowingly permit to be done anything in contravention of any of the provisions of this Act, or wilfully fail to do anything which under any of those provisions ought to be done by him, the Company may, subject to the provisions of this Act, turn off the water supplied by them to the person so in default, and cease to supply him with water, and also may recover from every person so in default in any court of competent jurisdiction the amount of any loss, damage, or injury which the Company sustain by reason of the wilful act or failure.

Differences as to regulations, &c. to be determined by justices.

21. Provided always, that if and whenever any difference arises between the Company and any person whose supply has been turned off as to whether the provisions of this Act have been complied with by such person, or as to whether his supply has been legally turned off by the Company, such difference may be referred by either party to and shall be settled by two justices in petty sessions.

Power to enter for purpose of cutting off supply, &c.

22. Where the Company are authorised to cut off or remove any pipe or work, or to turn off any supply of water, their officers and workmen, after giving twenty-four hours notice to the occupier, or if there is none, to the owner, may enter into the building or land supplied, between the hours of nine in the forenoon and four in the afternoon, or, with the authority in writing of a justice, at any other time, and may therein do all acts necessary or proper for cutting off or removing or turning off such pipe or work or supply (as the case may be), and may remove and carry away any meter, pipe, instrument, or apparatus the property of the Company, making compensation to the owner for any damage to his premises sustained by him; and if any person obstructs or attempts to obstruct, or incites any person to obstruct, any officer or workman of the Company lawfully acting in pursuance of this section, he shall for every such offence be liable to a penalty not exceeding five pounds.

Water rates for domestic purposes.

23. From and after the first day of January one thousand eight hundred and eighty the Company shall, at the request of the owner or occupier of any dwelling-house or part of a dwelling-house occupied as a separate tenement or dwelling in any street or road in which any main or service pipe of the Company from time to time is laid, or of any person who is entitled to demand a supply of water for domestic purposes, furnish or continue to furnish to the owner, occupier, or other person by means of communication pipes and other necessary and proper apparatus, provided or to be provided, laid down, and maintained at the cost of the person having the supply, a sufficient supply of water for domestic purposes, including one watercloset, at a rate on the annual rackrent or (if not let at a rackrent) annual value of the dwelling-house or part of a dwelling-house not exceeding the rate following; (that is to say,)

Where the annual rackrent or value does not exceed five pounds, at the yearly rate of seven shillings:

Where the annual rackrent or value exceeds five pounds and does not exceed ten pounds, ten shillings:

Where the annual rackrent or value exceeds ten pounds and does not exceed fifteen pounds, fifteen shillings:

Where the annual rackrent or value exceeds fifteen pounds and does not exceed twenty pounds, twenty shillings:

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Where the annual rackrent or value exceeds twenty pounds and does not exceed twenty-five pounds, twenty-five shillings:

Where the annual rackrent or value exceeds twenty-five pounds and does not exceed thirty pounds, thirty shillings:

Where the annual rackrent or value exceeds thirty pounds and does not exceed forty pounds, forty shillings:

Where the annual rackrent or value exceeds forty pounds, at a rate not exceeding five pounds per centum of such annual rackrent or value:

Provided that the foregoing rates shall not apply to any house or premises where any trade or business for which water is required is carried on.

In addition to the rates before specified the Company may charge five shillings per annum for every watercloset beyond the first, and ten shillings for every fixed bath not calculated to hold, when filled for use, more than fifty gallons of water, and such additional sums may be received with and as part of and be recovered by the same means as the rate for the supply of water for domestic purposes.

Water may be supplied by agreement.

24. 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 by meter or otherwise, upon such terms and conditions as shall be agreed on between the Company and the person desirous of having the supply.

Power to sell or let meters, &c.

25. The Company may from time to time sell and dispose of meters, pipes, and fittings, or let meters with or without pipes and fittings, or pipes and fittings alone, on hire, upon and subject to such terms (pecuniary and otherwise) and conditions as the Company think fit.

Service pipes.

26. All fittings connected with any service pipe to communicate with the mains and pipes of the Company which shall be provided by any person shall be placed and removed under the superintendence of the Company and at the expense of such person.

Power to remove meters and fittings.

27. The Company, after forty-eight hours notice in writing under the hand of the secretary or some other officer of the Company to the occupier, or if there is no occupier then to the owner or lessee, of any building or lands in which any pipe, meter, or fitting belonging to the Company is laid or fixed, and through or in which the supply of water is from any cause other than the default of the Company discontinued for not less than forty-eight consecutive hours, may enter such buildings or lands between the hours of nine in the morning and four in the afternoon, or at any other time with the authority in writing of a justice, for the purpose of removing,

and may remove every such pipe, meter, and fitting, repairing all damages caused by such entry or removal; and every notice required by this section shall be served by being delivered to the person for whom it is intended, or left at his usual or last-known place of abode or business in England, or if such person or his usual place of abode or business in England is not known to the Company after proper inquiry, then by being affixed on some conspicuous part of such building or lands.

Notice to Company of putting up meters, &c.

28. Before any person connects or disconnects any meter through which any of the water of the Company is intended to be or has been registered, he shall give not less than forty-eight hours notice in writing to the Company of his intention to do so; and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Repair of meters.

29. The Company shall at all reasonable times have access to and be at liberty to take off, remove, test, inspect, repair, and replace any meter belonging to a consumer and used for measuring water supplied by the Company, such taking off, removal, testing, and inspecting, repairing, and replacing to be done at the expense of the Company, if the meter be found in proper order, but otherwise, at the expense of the consumer; and any difference between the Company and the consumer with respect to the matters aforesaid shall be determined in manner provided by the next section of this Act.

Register of meter to be primâ facie evidence.

30. The register of the meter when in working order shall be primâ facie evidence of the quantity of water consumed by any customer of the Company in respect of which any water rate or rent is charged and sought to be recovered by the Company; but in the event of the meter failing to register or indicate the quantity of water consumed, the consumption during the corresponding quarter of the previous year shall be held to be the quantity to be charged for: Provided always, that if the Company and the consumer differ as to the quantity consumed, such difference shall be determined, upon the application of either party, by two justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of such justices shall be final and binding on all parties.

Fraudulently injuring meters, &c.

31. If any person wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any pipe, meter, or fitting belonging to the Company, or fraudulently alters the index to any meter, or fraudulently prevents any such index from duly registering the quantity of water supplied, he shall (without prejudice to any other

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right or remedy for the protection of the Company or the punishment of the offender) for every such offence be liable to a penalty not exceeding five pounds; and the Company may in addition thereto recover the amount of any damages sustained by them, and the Company may also discontinue the supply of water to the person so offending until the injury is remedied and the amount of the damage is paid, notwithstanding any contract previously existing; and the existence of artificial means for causing such alteration or prevention when such pipe, meter, or fitting is under the custody or control of the consumer shall be primâ facie evidence that the same has been fraudulently caused by the consumer using such pipe, meter, or fitting.

Power for Company to supply materials, &c.

32. The Company may, if requested by any person supplied or about to be supplied by them with water, furnish to him, and from time to time repair or alter, any meters, pipes, valves, cocks, baths, soil-pans, waterclosets, apparatus, and receptacles as are required, and may provide all materials, and do all work necessary or proper in that behalf, and the cost of providing such materials and executing such work shall be paid by the person requiring the same, and shall be recoverable from such person in the same manner as the water rates or rents.

Incoming tenant not liable for arrears.

33. The Company shall not be entitled to require from the incoming tenant of any property the payment of arrears of water rent or meter rent left unpaid by any former tenant, unless the incoming tenant has undertaken with such former tenant to pay or exonerate him from the payment of such arrears.

Recovery of sums due.

34. If any person fails to pay any water rent, meter rent, rate, damages, costs, expenses, or other sum due to or recoverable by the Company under this Act, they may recover the same by proceedings in any court of competent jurisdiction, or if the amount thereof is not bonâ fide disputed, the same may be levied by distress (the person in default being first duly summoned), and any justice may issue his warrant accordingly; and the remedies of the Company under this section shall be in addition to their other remedies for recovery of any such rent, rate, damages, costs, expenses, or other sum.

Notice of discontinuance.

35. A notice to the Company from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing and be left at the principal office for the time being of the Company.

Rates to be paid in advance quarterly.

36. The rates for a supply of water shall be paid in advance, by equal quarterly payments on the first day of January, the first

day of April, the first day of July, and the first day of October in every year.

Company not bound to supply several houses by one pipe.

37. The Company shall not be bound to supply more than one house by means of the same pipe, and they may, if they think fit, require that a separate pipe be laid into any house supplied by them with water.

Power to raise additional capital.

38. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, from time to time raise, for the purposes of this Act and for the general purposes of their undertaking, any additional capital, not exceeding in the whole thirty-five thousand pounds, by the issue at their option of ordinary shares or stock, or preference shares or stock, or wholly or partially by any one or more of those modes respectively, but the Company shall not issue any share of less nominal amount than ten pounds.

Shares not to issue until one fifth paid up.

39. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person or corporation accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Profits on capital.

40. The Company shall not in any one year make out of their profits any larger dividend on the original capital than eight pounds in respect of every one hundred pounds thereof, or on the additional share capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such additional capital as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such additional capital as may be issued as preference capital.

Power to borrow on mortgage.

41. The Company may, at any time and from time to time after the passing of this Act, borrow on mortgage of the undertaking in respect of the original capital any sum or sums not exceeding in the whole eight thousand pounds, inclusive of any sum borrowed on mortgage by the Company under the powers of the Act of 1808.

Further power to borrow on mortgage.

42. In addition to the sum of eight thousand pounds which the Company are authorised to borrow by the last preceding section, they may from time to time borrow on mortgage of the undertaking, in respect of the additional capital of thirty-five thousand pounds by this Act authorised to be raised, any sum not exceeding in the whole eight thousand pounds, and of that sum they may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole four thousand pounds in respect of each seventeen thousand five hundred pounds of such additional capital,

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but no part of any such sum of four thousand pounds shall be borrowed until shares for so much of the said additional capital of seventeen thousand five hundred pounds in respect of which it is raised as is to be raised by means of shares are issued and accepted, and one half of such capital is 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 shares for the whole of such capital have been issued and accepted, and that one half of such capital has been paid up, and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, or until stock for one half of so much of the said additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted, and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, if the said capital is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; 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 shall be sufficient evidence thereof.

Appointment of receiver.

43. 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.

Priority of existing mortgages.

44. All mortgages granted by the Company in pursuance of the powers of the Act of 1808, and subsisting at the passing hereof, shall, during the continuance of such mortgages, and subject to the provisions of the Act of 1808, 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.

As to conversion of borrowed money into capital.

45. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or any part thereof, by the creation of shares or stock instead of borrowing, or to convert into capital the amount borrowed under the provisions 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 pounds per centum per annum.

Power to create debenture stock.

46. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of moneys borrowed on mortgage or debenture stock.

47. All moneys raised or to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company, and the property from time to time of the Company, over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Provided always, that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act, 1845, or the Lands Clauses Consolidation Acts Amendment Act, 1860, or in respect of any rent or sum reserved by or payable under any lease granted or made in pursuance of any Act relating to the dissolved Company or to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock, nor shall anything in this section contained affect any claim for land or any easement in or over land taken, used, or occupied by the Company for the purposes of their undertaking or works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application of money.

48. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied for the purposes of this Act, and for no other purposes.

Penalties not cumulative.

49. Penalties imposed for one and the same offence by several Acts of Parliament shall not be cumulative, and for this purpose this Act and the incorporated Acts shall be deemed separate Acts.

Directors may declare interim dividends.

50. The directors may, if they think fit, at any time, not being more than seven months nor less than five months before the day on which an ordinary general meeting of the Company is to be held, declare and pay to the holders of the several classes of shares and stock (other than debenture stock of the Company), on account and in anticipation of part of the dividends to be declared at such meeting, an interim dividend of such an amount as shall in the opinion of the directors, having regard to the state of the business and

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of the ascertained and probable future profits during the current year of the Company, represent as nearly as may be one half of the amount of the dividends to which the respective classes of shares or stock would be entitled out of the profits applicable to dividend of the whole of the current year.

Power to acquire additional lands by agreement.

51. The Company may for any of the purposes of their undertaking from time to time, by agreement, purchase in fee, either absolutely or in consideration of any yearly or other rent, any additional quantity of land, not exceeding in the whole ten acres, and may acquire any easement or right of water which they may from time to time think requisite: Provided always, that the Company shall not erect, or authorise or permit the erection, on any of such lands whilst the same are held by them, of any buildings other than buildings necessary for or connected with their waterworks or dwellings for officers, servants, or workmen of the Company.

Company to sell undertaking on requisition of urban sanitary authority.

52. If the urban sanitary authority shall within one month after the passing of this Act, by writing under their common seal, addressed and delivered to the chief clerk or secretary of the Company at his office, require the Company to sell the undertaking to the urban sanitary authority, the Company shall thereupon sell, and the urban sanitary authority shall purchase, the undertaking in accordance with and upon the terms and conditions set out in the heads of agreement scheduled to this Act.

Providing for completion of sale and purchase and transfer of powers, &c. to urban sanitary authority.

38 & 39 Vict. c. 55.

53. The sale and purchase of the undertaking shall be carried into effect and completed by a deed of conveyance under the respective common seals of the Company and the urban sanitary authority, in which the purchase money shall be truly stated, and such deed of conveyance shall be duly stamped, and from and after the completion of the purchase all the powers, rights, privileges, and authorities of the Company shall be by virtue of this Act transferred to and vested in the urban sanitary authority, and shall be exercised by the urban sanitary authority as purposes of the Public Health Act, 1875; and this Act shall be read and have effect as if the urban sanitary authority had been named herein instead of the Company, subject nevertheless to all the provisions, conditions, and restrictions contained in this Act, and also subject and according to the following exceptions and provisions:

1. The provisions of the Companies Clauses Consolidation Act, 1845, and of the Companies Clauses Act, 1863, incorporated with this Act, shall not apply to the urban sanitary authority:
2. None of the provisions of this Act in any manner relating to the share or loan capital of the Company, or to any limitation of the amount to be received by the Company or undertakers,

or to the constitution, meetings, or directors of the Company, shall apply to the urban sanitary authority.

Receipt of directors of Company for purchase money.

54. The receipt in writing of the directors of the Company for the purchase money to be paid by the urban sanitary authority shall effectually discharge the urban sanitary authority from the sum which in such receipt shall be acknowledged to have been received, and from being concerned to see to the application thereof, and from being answerable or accountable for the loss, misapplication, or non-application thereof.

Division of purchase money.

55. The purchase money to be paid by the urban sanitary authority shall be paid by them into such bank as the directors for the time being of the Company shall appoint, and to the account of the Company, and shall be applied by the directors in the manner following:

First. In discharging in accordance with their several priorities all moneys due and owing by the Company on mortgage, bond, or other charge on the undertaking of the Company:

Secondly. In discharging all outstanding debts and liabilities of the Company which shall not have been so secured:

Thirdly. In making a fair rateable division of the residue thereof amongst the holders of the stock or shares of the Company in proportion to their respective interests in the undertaking of the Company.

Providing for dissolution of the Company.

56. When and so soon as the said purchase money shall have been appropriated and divided in manner herein-before directed the Company shall be by virtue of this Act dissolved.

Expenses of Act.

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

SCHEDULE referred to in the foregoing Act.

Heads of Agreement.

1. The Company shall sell, and the urban sanitary authority shall purchase, as from the 30th June 1879, the undertaking and property of the Company as the same now exists and is carried on.

2. The urban sanitary authority shall accept and be content with the title of the Company in all respects as the same now stands, and shall raise no question or objection whatsoever touching the validity or sufficiency of the powers of the Company with respect to their said undertaking or the property acquired by them in relation thereto, or any act, matter, or thing done or

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suffered by the Company for the purpose of or in relation to their said undertaking.

3. The sum to be paid for the said purchase shall be ascertained by arbitration in the mode provided by the Public Health Act, 1875, upon the following bases; (that is to say,)

A. The arbitrators shall ascertain the net annual earnings and income of the Company from every source for the year ending the 30th June 1879.

B. Such sums as shall be found to have been expended by the Company on working account, but to be as yet unproductive of income, shall not, in arriving at the amount of net earnings and income, be regarded by the arbitrators as deductions to be made therefrom. The amount or proportion of sums so expended and unproductive shall be ascertained and determined by the arbitrators.

C. Such ascertained net earnings and income shall be multiplied by 25 years.

D. Ten pounds per centum on the total product of such multiplication shall be allowed to the Company for the prospective value of their undertaking.

4. The Bill now being promoted by the Company shall for the purposes of the said arbitration be disregarded.

5. In addition to the sum that shall be awarded by the arbitrators as the purchase money payable for the said undertaking of the Company, the urban sanitary authority shall pay to the Company all such sums as shall have been expended by the Company from any source on capital account from the 30th September 1878 up to the 30th June 1879, but excluding therefrom the costs and expenses of and incidental to their present Bill. Should the said authority, however, adopt such Bill in Committee, the costs of the further prosecution thereof shall be paid by the urban sanitary authority.

6. All mains, pipes, and other plant of the Company in hand and not in actual use on the 30th June 1879, and also all coals and other consumable stores and articles then belonging to the Company shall be taken and paid for by the said urban sanitary authority at a valuation.

7. The purchase shall be completed on the 29th day of September 1879, and as from the 30th June 1879, the purchase moneys and valuations shall respectively carry interest at 5 per centum per annum. All rents, rates, and other income accruing due up to the 30th June 1879 shall be received by and belong to the Company, who shall pay all expenses and outgoings up to that date; but as from the 30th June 1879 to the actual completion of the purchase the undertaking shall be carried on by the Company for the benefit and at the cost and risk of the urban sanitary authority.

17th April 1879.

H. JONES,
For Urban Sanitary Authority.
JOSSELYN & SONS,
For the Water Company.

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