CHAPTER xxx.

An Act for conferring further powers on the Eastbourne Waterworks Company for the construction and maintenance of works and otherwise in relation to their undertaking, and for regulating their Share and Loan Capital; and for other purposes. [28th May 1875.]

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WHEREAS by "The Eastbourne Waterworks Act, 1859, (in this Act called "the Act of 1859,") the Eastbourne Waterworks Company (in this Act called "the Company") were incorporated for the purpose of supplying with water the town of Eastbourne and places adjacent thereto within the parish of Eastbourne, and the parish of Willingdon, in the county of Sussex, and authorised to raise a capital of seven thousand pounds in one thousand four hundred shares of five pounds each, and to borrow on mortgage or bond not exceeding two thousand three hundred and thirty pounds, and to make and maintain the works by that Act authorised: 22 & 23 Vict. c. xcix.

And whereas the Company have completed the works authorised by the Act of 1859, and have raised and expended thereon the whole of the said share capital of seven thousand pounds, and have also borrowed and expended on such works and now owe the said sum of two thousand three hundred and thirty pounds authorised to be borrowed by the Act of 1859:

And whereas by the Act of 1859 (section 39) the Company were required to purchase the undertaking of the Eastbourne Waterworks Company (Limited), and (section 40) were authorised to raise for such purpose, by the creation of new shares or stock, not exceeding five thousand pounds:

And whereas the Company purchased the undertaking of the Eastbourne Waterworks Company (Limited) for the price of four thousand six hundred pounds, and raised that sum by the creation of ordinary shares:

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And whereas the said share capital of eleven thousand six hundred pounds (in this Act called the original capital) is fully paid up, and it is expedient that the same be converted into stock, as by this Act provided:

And whereas since the passing of the Act of 1859 the population of the town of Eastbourne and the neighbourhood thereof has greatly increased and is still increasing, and by reason thereof, and the largely increased demand for water consequent thereon, it became necessary to construct additional works, and to lay down additional mains and pipes, and the Company have from time to time purchased land and constructed works and laid down additional mains and pipes for the purpose of enabling them to provide an increased supply of water; and to meet the outlay thereby occasioned the Company have raised and expended sums of money amounting in the whole (in addition to the said sums of seven thousand pounds, two thousand three hundred and thirty pounds, and four thousand six hundred pounds authorised to be raised by the Act of 1859,) to the sum of twenty-nine thousand pounds, or thereabouts, the whole of which has from time to time been provided by the Most Noble William Duke of Devonshire, who is the holder of the largest number of shares in the capital of the Company:

And whereas it is expedient that the past proceedings of the Company with reference to the construction of the said last-mentioned works, and the expenditure of money thereon, should be sanctioned and confirmed, and that the Company should be authorised (subject to the limitation of dividend thereon by this Act prescribed) to create stock (in this Act called improvement stock) to the amount of twenty-nine thousand pounds expended as aforesaid, and to issue the same to the said Duke of Devonshire, his executors, administrators, or assigns, as by this Act provided:

And whereas, in order to meet the increasing demands for water within the limits of the Act of 1859, it is necessary that the Company should increase their works and lay down additional mains and pipes, and it is expedient that they should be empowered to construct the additional works by this Act authorised and to raise further money for the purpose, and for the better and more effectually carrying out the objects and purposes of their undertaking:

And whereas plans and sections of the works by this Act authorised to be made and maintained, showing the lines and levels thereof and the lands which may be taken for the purposes of this Act, and also books of reference to the plans, containing the names

of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands, have been deposited with the clerk of the peace for the county of Sussex, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference:

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

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

Short title.

1. This Act may be cited as "The Eastbourne Waterworks Act, 1875."

Provisions of certain general Acts incorporated.

2. The clauses and provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the following matters; (that is to say,) the distribution of the capital of the Company into shares, the transfer or transmission of shares, the payment of subscriptions and the means of enforcing the payment of calls, the forfeiture of shares for non-payment of calls, the remedies of creditors of the Company against the shareholders, the borrowing of money by the Company on mortgage or bond, the conversion of borrowed money into capital, the consolidation of shares into stock, the making of dividends, the giving of notices, and the provision to be made for affording access to the special Act by all parties interested; and Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of "The Companies Clauses Act, 1863," and "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," and "The Waterworks Clauses Acts, 1847 and 1863," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expressions "the works" and "the undertaking" mean respectively the waterworks and the undertaking by this Act authorised, and for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act, or any Act wholly or partially incorporated

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herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Power to maintain works.

4. Subject to the provisions of this Act the Company may maintain, alter, and extend, in the lines and according to the levels shown on the deposited plans and sections, and may hold as part of their undertaking, the works herein-after described, with all proper works and conveniences connected therewith, and may (but only by agreement) enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for the purpose. The works herein-before referred to and hereby authorised are—

(1.) A reservoir, and works connected therewith, situate in the parish of Eastbourne in the county of Sussex, in a certain enclosure called or known as the Paradise Plantation, and numbered 815 on the tithe map of the said parish, and bounded on the west by "the Down" and on the east by "the Links":

(2.) A main pipe situate in the said parish of Eastbourne, commencing from and out of the reservoir above described on the eastern side thereof, and terminating in the public road leading from Meads to Eastbourne, at a point two hundred and twenty yards or thereabouts west of Prentice Street.

Power to make works

5. Subject to the provisions of this Act the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, the reservoir herein-after described, with all necessary embankments, filtering beds, dams, drains, sluices, conduits, culverts, channels, tanks, pipes, engines, and other works and conveniences connected therewith or incidental thereto, and may enter upon, take, and use such of the lands shown upon the said plans and described in the deposited books of reference as may be required for the purpose. The reservoir herein-before referred to and hereby authorised is—

A reservoir situate in the said parish of Eastbourne in a field known as "Part of Mill Furlong," and numbered 198 on the tithe map of the said parish, and bounded on the west by a public road running from Mill Gap to the high road between Eastbourne and Willingdon, and on the south by the existing reservoir of the Company situate at Mill Gap.

Powers for compulsory purchases limited.

6. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years after the passing of this Act.

Period for completion of works.

7. If the waterworks authorised by this Act and shown on the deposited plans are not completed within five years from the passing of this Act, then, on the expiration of that period, the powers by this Act granted to the Company for executing the same or otherwise in relation thereto shall cease to be exercised, except as to so much thereof as is then completed; but nothing herein contained shall restrict the Company from extending, enlarging, altering, or removing any of their engines, machinery, mains, or pipes from time to time as occasion requires, for supplying water within the limits in that behalf of the Act of 1859.

Power to purchase additional lands by agreement.

8. The Company may from time to time, for the purposes of their undertaking, purchase by agreement, in addition to the lands which they are now authorised to take, any quantity of land not exceeding ten acres.

Power to take easements, &c. by agreement.

9. Persons empowered by "The Lands Clauses Consolidation Act, 1845," to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act and of "The Lands Clauses Consolidation Acts Amendment Act, 1860," and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants, and to such easements, rights, and privileges as aforesaid respectively.

Reservation of water rights, &c., on sale.

10. On the sale by the Company of any lands, they may reserve to themselves all or any part of the water or water rights, or other easements belonging thereto, and may make the sale subject to such reservations accordingly, and may also make any such sale subject to such other reservations, special conditions, restrictions, and provisions with respect to the use of water, exercise of noxious trades, or discharge or deposit of manure sewage, or other impure matter, as they think fit.

Conversion of original capital into stock.

11. The original capital is by this Actconverted into stock, and shall be divided amongst and vested in the shareholders according to their respective interests in the said capital, and every portion of such stock shall be subject and liable to the same trusts, powers, provisions, declarations, agreements, charges, liens, and incumbrances as immediately before the passing of this Act affected the shares for which the same is substituted, 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 certifi-

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cates of shares in the Company, and issue in lieu thereof to every stockholder a certificate stating the amount of stock held by him, 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 Company the loss thereof, and, subject to the provisions of this section, 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.

Providing for creation of improvement stock.

12. Within six months after the passing of this Act the Company shall create stock, to be called Improvement Stock, to the amount of twenty-nine thousand pounds, and shall issue the same as fully paid-up stock to the Most Noble William Duke of Devonshire, his executors, administrators, or assigns, and such stock shall bear interest at the rate herein-after prescribed.

Power to raise additional capital.

13. The Company may, subject to the provisions of Part II. of "The Companies Clauses Act, 1863," from time to time raise any additional capital, not exceeding in the whole thirty thousand four hundred pounds, by the issue at their option of new ordinary shares or new preference shares, or wholly or partially by either of those modes.

Shares not to be issued until one-fifth part is paid thereon.

14. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds, 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.

Calls.

15. One fifth of the amount of a share shall be the greatest amount of a call, and two months at the least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt clause in case of persons not sui juris.

16. If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Except as otherwise provided, new shares to be subject

17. Except as is by this Act otherwise provided, the capital in new shares created by the Company under this Act, and the new shares therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights,

privileges, and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares were shares in that capital. The capital in new shares so created shall form part of the capital of the Company.

to same incidents as ordinary shares.

18. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned.

Restriction as to votes in respect of preferential shares or stock.

19. The Company shall not in any one year make out of their profits any larger dividend on the improvement stock, 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 improvement stock or 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 capital as may be issued as preference capital.

Profits of the Company limited.

20. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary stock or shares in the capital of the Company, a rateable deduction shall be made in the dividend of each class.

Dividend on different classes of stock or shares to be paid rateably.

21. The Company may, in respect of the additional capital of thirty thousand four hundred pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole seven thousand six hundred pounds, but no part thereof shall be borrowed until shares for the whole of the said additional capital 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, and that such shares were issued and accepted bonâ fide and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, 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

Power to borrow on mortgage.

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think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

As to conversion of borrowed money into capital.

22. 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.

Priority of principal moneys secured by existing mortgages.

23. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing hereof, shall, during the continuance of such mortgages, 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.

Repeal of provisions of former Acts with respect to appointment of receiver.

24. Every provision in any Act relating to the Company passed before the present session of Parliament, by which the mortgagees of the Company are empowered to enforce payment of principal and interest, or principal or interest, due on their mortgages, by the appointment of a receiver, is by this Act repealed, but without prejudice to any appointment heretofore made, or to the continuance of any proceedings which may have been commenced under any such provision prior to the passing of this Act.

Arrears may be enforced by appointment of a receiver.

25. 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.

Power to create debenture stock.

26. 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.

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Priority of mortgages over other debts.

27. All money 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 to the Company in pursuance of any Act relating 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 taken, used, or occupied by the Company for the purposes of the Company's undertaking and works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Application of moneys.

28. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act and the Company's undertaking only.

Expenses of Act.

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

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