## CHAPTER lxxvii.

An Act for conferring further powers on the Eastbourne Waterworks Company. A.D. 1889. [26th July 1889.]

WHEREAS the Eastbourne Waterworks Company (in this Act called "the Company") are incorporated by the Eastbourne Waterworks Act 1859 and further powers are conferred on the Company by the Eastbourne Waterworks Act 1875 and the Eastbourne Waterworks Act 1881 which three Acts are in this Act referred to collectively as "the former Acts" and each of them separately as an Act of the year in which the same was passed:

And whereas the Company have with the exception of the reservoirs (B) and (D) authorised by the Act of 1881 and secondly and fourthly described in section 5 of that Act completed the whole of the works authorised by the former Acts and have raised and expended for the purposes of their undertaking nearly the whole of the moneys authorised to be raised for the purposes thereof:

And whereas for the better and more effectually enabling the Company to meet the increasing demand for water within their limits of supply and carrying out the objects and purposes of their undertaking it is expedient that the Company be empowered to make and maintain the additional works by this Act authorised and to enlarge certain of their existing and authorised works as by this Act provided and for those purposes and for the general purposes of their undertaking to raise additional share and loan capital:

And whereas it is expedient that the time limited by the Act of 1881 for the completion of the said reservoirs (B) and (D) thereby authorised and secondly and fourthly described in section 5 thereof be extended as by this Act provided:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be

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taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Sussex and are herein-after respectively 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 1889.

Incorporation of general Acts.

**2.** The following Acts and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883:

The Waterworks Clauses Acts 1847 and 1863:

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof:

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;

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

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:

Provided that the incorporated provisions of the Railways Clauses Consolidation Act 1845 shall apply only to the reservoirs by this Act authorised.

Construction of section 44 of Waterworks Clauses Act 1847.

3. Section 44 of the Waterworks Clauses Act 1847 as incorporated in the former Acts and in this Act shall be read as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted therefrom.

Interpretation.

4. 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 waterworks" and "the undertaking" respectively mean and include the waterworks and the works connected therewith and the undertaking by this Act authorised:

And for the purposes of this Act—

The expression "railway" in the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this Act means the reservoirs by this Act authorised and the expression "centre of the railway" in those provisions means any part of such reservoirs and the prescribed limits shall be fifty yards from any part of such reservoirs:

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to make works.

5. Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the works herein-after described with all necessary embankments walls wells pumping engines cuts adits aqueducts roads approaches conduits culverts tanks pipes engines machinery appliances 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 and may collect and impound by and in their works and thence distribute all or any springs and waters on the site of such works or in or under any lands for the time being of the Company. The works herein-before referred to and hereby authorised are wholly situate in the parish of Eastbourne in the county of Sussex and are:—

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(*a.*) A reservoir to be situate in a field called or known as "part of Grey Nore" and in those portions thereof which are respectively numbered 702 and 703 on the Tithe Commutation map of the said parish of Eastbourne the western boundary of which reservoir will be one hundred and seventy yards or thereabouts measured in a north-easterly direction from the centre of the existing reservoir of the Company in land which was formerly part of the said field and the eastern boundary of which reservoir will be three hundred and seventy yards or thereabouts measured in a south-westerly direction from the National Schools at Meads in the said parish of Eastbourne and the northern boundary of which reservoir will be forty yards or thereabouts measured in a southerly direction from the high road leading from Meads to East Dean and the southern boundary of which reservoir will be sixty yards or thereabouts measured in a southerly direction from the said road.

(*b.*) A reservoir to be situate immediately to the south of the reservoir above described and in the said portions of the said field called "part of Grey Nore" the western boundary of which reservoir will be one hundred and fifty yards or thereabouts measured in a north-easterly direction from the centre of the said existing reservoir of the Company and the eastern boundary of which reservoir will be three hundred and seventy-five yards or thereabouts measured in a south-westerly direction from the said National Schools at Meads and the northern boundary of which reservoir will be seventy yards or thereabouts measured in a southerly direction from the said high road leading from Meads to East Dean and the southern boundary of which reservoir will be ninety yards or thereabouts measured in a southerly direction from the said road.

(*c.*) An enlargement by deepening of the reservoir of the Company now in course of construction authorised by the Eastbourne Waterworks Act 1881 and fourthly described in section 5 of that Act and which is situate in land formerly a portion of the said field called "part of Grey Nore" and immediately adjoining the said existing reservoir of the Company.

(*d.*) An enlargement by deepening of the existing reservoir of the Company authorised by and firstly described in section 4 of the Eastbourne Waterworks Act 1875 called or known as the "Paradise Reservoir" and which has been constructed on land which was formerly part of a certain inclosure called or known as the "Paradise Plantation."

(*e.*) An enlargement by removing the present slopes of the most southernmost of the existing reservoirs of the Company situate at Mill Gap.

Limits of deviation.

**6.** In making the works by this Act authorised the Company may deviate laterally from the lines thereof shown or described on the deposited plans to any extent within the limits of deviation shown thereon and may deviate vertically from the levels thereof shown on the deposited sections to any extent not exceeding two feet upwards and ten feet downwards Provided that the Company shall not in the exercise of the powers of lateral deviation hereby given make any embankment or retaining wall of any reservoir of a greater height above the general surface of the ground than that shown on the deposited plans and two feet in addition.

Period for compulsory purchase of lands.

**7.** The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of works.

**8.** If the waterworks authorised by this Act and shown on the deposited plans are not completed within ten 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 except as to so much thereof as is then completed but nothing in this Act contained shall restrict the Company from extending enlarging altering reconstructing or removing any of their tanks engines machinery mains or pipes from time to time as occasion may require.

Power to purchase additional lands by agreement.

**9.** The Company may from time to time for the purposes of their undertaking purchase by agreement in addition to the lands which they are already authorised to hold under the powers of the former Acts or to take by compulsion under the powers of this Act any quantity of land not exceeding in the whole ten acres Provided that the Company shall not deal with such lands so as to create a nuisance nor on any such lands erect or authorise or permit the erection of any buildings other than buildings connected with or necessary for their undertaking.

Power to take easements &c. by agreement.

**10.** Persons empowered by the Lands Clauses Consolidation Act 1845 or otherwise enabled 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

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grants and to such easements rights and privileges as aforesaid respectively.

Reservation of water rights &c. on sale.

**11.** 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.

Restriction on taking houses of labouring class.

**12.**—(1.) The Company shall not except with the previous consent in writing of the Local Government Board under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

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

Extension of time for completion of certain works authorised by Act of 1881.

**13.** The period limited by the Act of 1881 for the completion of the reservoirs (B) and (D) authorised by that Act and secondly and fourthly described in section 5 thereof is by this Act extended and those reservoirs may and shall be completed within two years from the third day of June one thousand eight hundred and ninety-one and on the expiration of that period the powers by the Act of 1881 and this Act granted to the Company for making and completing those reservoirs or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Power to raise additional capital.

**14.** The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 for the purposes of this Act and for the general purposes of their undertaking from time to time raise any additional capital not exceeding in the whole one-hundred thousand pounds by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by one or more of those modes respectively but the Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such

share or stock vest in the person or corporation accepting the same unless and until the full nominal amount of such share or stock (if such share or stock shall be issued at or above par) together with any premium obtained upon the sale thereof shall have been paid in respect thereof. Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce including any premiums which may be obtained on the sale thereof the sum of one hundred thousand pounds.

Except as otherwise provided new shares or stock to be subject to same incidents as ordinary shares or stock.

**15.** Except as is by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock 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 or stock were shares or stock in that capital. The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

**16.** Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be.

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

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

Profits of the Company limited.

**18.** The Company shall not in any one year make out of their profits any larger dividend 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 capital as shall be issued as ordinary capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said sum of seven pounds per centum per annum or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

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

**19.** 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 proportionate reduction shall be made in the dividend of each class.

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

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

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

**21.** It shall be one of the conditions of any sale of shares or stock under this Act that the whole nominal amount thereof together with any premium given by any purchaser at such sale shall be paid to the Company within three months after such sale.

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

**22.** The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the town clerk of the borough of Eastbourne and to the secretary of the Committee of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the said borough.

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

**23.** When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserved price put upon the same respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863 Provided always that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender in the manner and subject to and in accordance

with the foregoing provisions of this Act with respect to the sale of shares and stock but at a lower reserved price than the price put upon the same at the preceding offer thereof for sale by auction or tender (not being less than the nominal value of the shares or stock so offered) and any shares or stock not then sold shall be again offered to the holders of ordinary shares or ordinary stock at the last-mentioned reserved price and so from time to time on failure of any sale or offer.

Application of premium arising on issue of shares or stock.

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

Power to borrow in respect of additional capital.

**25.** The Company may from time to time subject to the provisions of this Act borrow on mortgage of the undertaking any sum or sums not exceeding in the whole one-fourth part of the amount of the additional capital by this Act authorised to be raised and at the time actually issued by shares or stock but no part thereof shall be borrowed until the whole of the shares or stock at the time issued together with the premium (if any) realised on the sale thereof shall have been fully paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that such shares and stock and premium (if any) have been issued and fully paid up and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

As to conversion of borrowed money into capital.

**26.** The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the issue of debenture stock or any part thereof by the creation of shares or stock instead of borrowing or to convert into share capital any money borrowed under the 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.

**27.** 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 and subject to the provisions of the Acts under

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which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

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

**28.** 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.

For appointment of receiver.

**29.** 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 five thousand pounds in the whole.

Power to create debenture stock.

**30.** The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 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.

Receipt in case of persons not sui juris.

**31.** If any money is payable to a shareholder or debenture or debenture stock holder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Priority of money raised on mortgage or debenture stock over other claims.

**32.** All money 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.

**33.** All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act and the Company's undertaking to which capital is properly applicable.

Costs of Act.

**34.** 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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