CHAPTER lxvi.

An Act for conferring further powers upon the Exmouth and Budleigh Salterton Waterworks Company; for the raising of further capital; and for other purposes. A.D. 1880.

[19th July 1880.]

WHEREAS the Exmouth and Budleigh Salterton Waterworks Company (in this Act called "the Company") were incorporated by the Exmouth and Budleigh Salterton Waterworks Act, 1864 (in this Act referred to as "the Act of 1864"), and empowered to construct works for supplying and to supply water within the several parishes and townships of Littleham and Exmouth, Withycombe Raleigh, and East Budleigh, all in the county of Devon, and for that purpose to raise a share capital of £8,000, and to borrow on mortgage £2,000: 27 & 28 Vict. c. ccxlix.

And whereas the Company have acquired lands and constructed works in substitution for portions of works authorised by the Act of 1864, and have raised and expended from time to time in and about the same, and in providing a supply of water within the limits of supply as defined in the Act of 1864, a considerable sum of money in addition to the capital authorised to be raised by that Act, parts of which sum, to wit £2,800, have been advanced on the responsibility of the directors for the purposes of the Company, and it is fair and expedient that such sum should be treated as paid-up shares (part of the share capital to be raised under the powers of this Act) and be placed to the credit of the persons in whose names such sum was advanced, or any other persons accepting such shares, on paying off such advances, subject to the restrictions as to dividends herein contained:

And whereas the Company have for the purpose of economy made and constructed the works shown on the deposited plans and sections outside the limits of deviation as defined on the plans deposited in respect of the Act of 1864, with the consent of the

A.D. 1880.

landowners, and it is expedient that the construction of such works should be authorised, and that such works should form part of the undertaking of the Company:

And whereas it is expedient that so much of the district defined by the Act of 1864 as is included within the district of the Budleigh Salterton Local Board of Health should be excluded from the limits of the Company's supply, and that the name of the Company should be changed by the omission of the words "Budleigh Salterton" and amended as is herein-after provided:

And whereas, in order to provide for the requirements of the population within the Company's limits of supply as altered by this Act, it is expedient that the Company be authorised to construct and maintain additional works:

And whereas it is expedient that the Company be authorised to raise additional share and loan capital for the purposes of this Act and the general purposes of their undertaking:

And whereas it is expedient that various other provisions be made respecting the Company's undertaking, and that the powers of the Company be in various respects enlarged, and that the Act of 1864 be in divers particulars extended and amended:

And whereas plans and sections describing the lines, situations, and levels of the works constructed outside the limits of deviation, and of the works proposed to be constructed, and a book of reference to those plans containing the names of the owners and lessees, reputed owners and lessees, and of the occupiers of the lands in the line of those works or within the limits of deviation as defined on those plans, and describing those lands, have been deposited with the clerk of the peace for the county of Devon, and are in this Act referred to as the deposited plans, sections, and book of reference:

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 for all purposes as the Exmouth and District Water Act, 1880.

This Act and recited Act to be construed as one Act.

2. The provisions of the Act of 1864, so far as they are not expressly repealed or varied by or are not inconsistent with the provisions of this Act, shall be incorporated with this Act, and this Act and the Act of 1864 shall (save as aforesaid) be read and construed together as one Act.

Incorporation of general Acts. 8 & 9 Vict. c. 16.

3. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (namely,)

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 consolidation of shares into stock;

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

The making of dividends;

The giving of notices; and

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

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, 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.

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. 10 & 11 Vict. c. 17. 26 & 27 Vict. c. 93.

Exemption of supply to Budleigh Salterton.

4. Notwithstanding anything in this Act, and the Act of 1864, contained, the Company shall not after the passing of this Act be liable to supply compulsorily with water the district of the Budleigh Salterton Local Board of Health, nor shall they exercise any powers of taking water within the said district, and the limits within which the Company may continue to supply water shall be those defined by the Act of 1864, the district of that Local Board only excepted.

Change of name of Company.

5. So much of clause 5 of the Act of 1864 as defines the name of the Company shall be and is hereby repealed, and the Company shall, after the passing of this Act, be known by and under the name of "The Exmouth and District Waterworks Company."

Interpretation of terms.

6. Terms to which meanings are assigned in Acts incorporated wholly or in part with this Act, or which have therein special meanings, have in this Act the same respective meanings. The expression "the undertaking" shall mean and comprehend the existing undertaking of the Company and the works by this Act authorised. And in this Act and (for the purposes of this Act) in Acts incorporated wholly or in part with this Act the expressions

A.D. 1880.

"superior courts" or "court of competent jurisdiction," or any other like expression, shall have effect as if the debt or demand with respect to which it is used was a common simple contract debt, and not a debt or demand created by statute.

Company to continue existing works not sanctioned by Parliament and to make new works.

7. Subject to the provisions of this Act the Company may do the following acts and things; (that is to say,)

(A.) They may in the lines and situations and on the lands shown on the deposited plans, and according to the levels shown on the deposited sections, continue and maintain in the parishes of East Budleigh and Littleham and Exmouth all or any of the works which have been constructed with the consent of the landowners, and amongst which are comprised the following; (namely,)

(1.) A conduit or line of pipes commencing in the parish of East Budleigh, near the east end of the Knowle Hill adit or tunnel, and terminating in the parish of Littleham and Exmouth, where the main pipe enters the circular tank for the supply of the filter beds of the Company;

(2.) A conduit or line of pipes situate wholly in the parish of Littleham and Exmouth, and commencing at a point in the public road leading from Exmouth to Knowle where the road to Liverton Farm joins the said public road, and terminating at a point in the public road 195 yards, or thereabouts, from where the Liverton occupation road joins the public road, measured along the said public road towards Exmouth.

The intention of this enactment being that such works being in accordance with the deposited plans and sections, they shall be part of the undertaking of the Company;

(B.) They may in the lines or situations and upon the lands shown on the deposited plans, and according to the levels shown on the deposited sections, make and maintain in the said parishes of East Budleigh and Littleham and Exmouth all or any of the additional works shown on the deposited plans, amongst which are comprised the following; (namely,)

(3.) A conduit or line of pipes situate wholly in the parish of East Budleigh, commencing at a point where the existing main line of piping passes through under the centre of the storage reservoir

embankment there, and terminating near the east end of the Knowle Hill adit or tunnel;

(4.) A conduit or line of pipes situate wholly in the parish of Littleham and Exmouth, commencing at a point in a field on the Quentance Farm belonging to the trustees of the Rolle Estate, and known by the name of Bramble Park, 60 yards, or thereabouts, from the low corner, measured along the east hedge of the said field, and terminating at a point in the public road leading from Exmouth to Knowle, 299 yards, or thereabouts, from where the road known as Cable's Lane joins the public road, measured along the said public road towards Exmouth;

(5.) An occupation road to the storage reservoir situate wholly in the parish of East Budleigh, commencing at a point where the stream from the Bystock ponds crosses the road leading from Withycombe Raleigh to Colyton Raleigh, and terminating at a point near the north-west end of the storage reservoir belonging to the Company;

and for any of the above purposes they may enter upon, take, and use such of the lands shown on the deposited plans and described in the deposited books of reference as may be necessary.

Protection of the trustees of Rolle's Estate.

8. The Company shall not acquire any right, title, or interest in any land belonging to the trustees of the will of John Lord Rolle beyond an easement in perpetuity for the purpose and with the right of laying and from time to time repairing and amending the pipes and works authorised by this Act, and incidental thereto, nor shall they deviate laterally from the centre line of pipes laid out on the plan beyond a distance of ten feet on either side thereof without the consent of the said trustees.

Limits of deviation.

9. In the construction of the works authorised by this Act, and subject to the provisions thereof, the Company may deviate laterally to any extent not exceeding the limits of the lateral deviation shown on the deposited plans, and they may deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet: Provided always, that where any work is to be made in any road, the limits of lateral deviation, if not otherwise shown on the deposited plans, shall be deemed to be the boundaries of such road.

A.D. 1880.

Period for compulsory purchase of lands.

10. The powers of the Company for the compulsory purchase of lands for the purposes of the works authorised by this Act shall not be exercised after the expiration of three years from the passing of this Act.

Power to take easements.

11. The Company may from time to time, subject to the provisions and for the purposes of this Act or the Act of 1864, take by agreement, and any person by the Lands Clauses Consolidation Act, 1845, or otherwise enabled to convey or release lands, may grant to the Company, any easement, right, or privilege of laying and maintaining water pipes and mains in or through any lands within the Company's limits of supply, at a yearly rent or otherwise; but in case of a person not enabled otherwise than by the Lands Clauses Consolidation Act, 1845, to sell lands, then subject and according to the provisions relating to the taking of lands by agreement contained in that Act and the Lands Clauses Consolidation Act Amendment Act, 1860, and this Act, and for this purpose any such easement, right, or privilege shall be deemed to be land within the meaning of those Acts respectively.

Period for completion of works.

12. If the works by this Act authorised to be constructed be 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 such respective works or in relation thereto shall cease to be exercised, except as to so much thereof as is then completed.

Power to sell or let meters.

13. The Company may from time to time sell and dispose of meters or let meters on hire, and subject to such terms (pecuniary or otherwise) and conditions as the Company think fit.

Power to supply materials.

14. The Company may, if required by any person supplied or about to be supplied by them with water, furnish to him and from time to time fix, repair, or alter any pipes, valves, cocks, cisterns, baths, soilpans, waterclosets, apparatus, and receptacles as are required, and may provide all materials and do all works necessary or proper in that behalf, and their charges for providing such materials and executing such works shall be paid by the person requiring the same.

Power to raise additional capital.

15. In addition to the capital which the Company are now authorised to raise, they may from time to time raise for the purposes of this Act and for the general purposes of their undertaking, by the creation and issue of shares or stock, such additional capital as they shall think necessary, not exceeding twenty thousand pounds, and the Company may create and issue such shares or

stock either wholly or partially as ordinary, or wholly or partially as preferential shares or stock, as they think fit. A.D. 1880.

Limitation of amount of calls.

16. Twenty per centum shall be the largest amount of a call which the Company may make in respect of any share, and there shall be an interval of not less than three months between the calls, and the Company shall not call up more than three fourths of the amount of a share in any year.

New capital to be subject to same incidents as other capital.

17. Except as otherwise provided by this Act, the capital created by the Company under this Act, and the shares or stocks therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, forfeitures, 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 those shares and that stock were shares and stock in that capital.

New shares, &c. to form part of capital.

18. The capital in new shares or stock so created shall form part of the capital of the Company.

Amount of new shares.

19. The Company shall not issue any new shares of less nominal value than ten pounds.

Dividends on new shares or stock.

20. 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.

Rate of dividend on new capital.

21. The prescribed rate of dividend on the ordinary new shares and stock, to the amount of seventeen thousand two hundred pounds, shall not exceed seven pounds per centum per annum, and on the remaining shares, to the amount of two thousand eight hundred pounds, which shall be treated as paid-up shares, and shall be applied in liquidation of the debt of two thousand eight hundred pounds advanced on the responsibility of the directors, shall not exceed five pounds per centum per annum, and the prescribed rate of dividend on any preference shares or stock shall not exceed five pounds per centum on the amounts actually paid up in each class.

Dividends on different classes of stock or

22. 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

A.D. 1880.

shares to be paid proportionately.

stock or shares in the capital of the Company, a proportionate deduction shall be made in the dividend of each class.

Receipt clause in case of persons not sui juris.

23. If any money is payable to a holder of shares or stock in the Company being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow on mortgage.

24. In addition to the moneys authorised by the recited Act to be raised by the Company, they may from time to time, by virtue of this Act, borrow on mortgage any sums not exceeding in the whole five thousand pounds, and the Company may, when five thousand pounds of the said additional capital has been from time to time issued and accepted, and one half thereof has been paid up, borrow on mortgage any sum or sums not exceeding in the whole one thousand two hundred and fifty pounds, and when and as each further sum of five thousand pounds of the said additional capital has been issued and accepted, and one half the amount thereof respectively has been paid up, the Company may borrow on mortgage such further sum or sums of money, not exceeding in the whole one thousand two hundred and fifty pounds, in respect of each sum of five thousand pounds, but in none of the before-mentioned cases shall any part of the said respective sums be borrowed until 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 so much of each such portion of additional capital as is to be raised by means of shares have been issued and accepted, and one half of such capital has been paid up, and that not less than one-fifth part of the amount of such separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of each such portion of 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 was issued, or their executors, administrators, successors, or assigns, and also if such 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 certificate shall be sufficient evidence thereof.

As to conversion of borrowed money into capital.

25. 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 instead of borrowing, or to convert into capital the amount borrowed under the provisions of this Act, unless in either case all dividends upon such shares are limited to a rate not exceeding five pounds per centum per annum.

Company may 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 after the passing of this Act 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.

Existing mortgages to have priority.

27. All mortgages or bonds granted or to be granted under the authority of any former Act relating to the Company shall, during the continuance thereof, and subject to the provisions of the Acts under which such mortgages or bonds were respectively granted, have priority over any mortgages granted by virtue of this Act, and 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.

Priority of mortgages over other debts.

28. 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 mortgage 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.

29. All money raised under this Act shall be applied for the purposes of the Company's undertaking, and not otherwise.

A.D. 1880.

Appointment of receiver.

30. 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 hundred pounds.

Supply of water in bulk.

31. Subject to the provisions of this Act, the Company may from time to time enter into and carry into effect such contracts and arrangements with any corporation, urban or rural sanitary authority, or other local authority, and the trustees of any turnpike or other road, or any highway board, or any surveyors of any highway, and any railway company, and any other companies, bodies, or persons, with respect to the supply of water in bulk or otherwise, as the Company think fit; and every such contract and arrangement may be for such period, on such terms, pecuniary or otherwise, and conditions, as the Company think fit, and the Company may by agreement vary, suspend, or rescind any such contracts or arrangements, and make others in lieu thereof and in addition thereto.

Domestic supply not to be interfered with.

32. Notwithstanding anything in this Act contained, the Company shall not supply water in bulk or otherwise to any corporation, body, or person beyond the Company's limits of supply, nor to any person within those limits for other than domestic purposes, if and so long as in either case the affording such supply would prevent the Company from giving a full and efficient supply for domestic purposes within the limits by this Act authorised.

Expenses of Act.

33. The costs, charges, and expenses preliminary to, and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Company.

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