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An Act to authorize the Great Yarmouth Waterworks Company to raise more Money, and for the Prevention of Waste and Misuse of the Company's Water; and for other purposes. [24th June 1869.]

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WHEREAS by "The Great Yarmouth Waterworks Act, 1853," (in this Act called "the Act of 1853,") the Great Yarmouth Waterworks Company (in this Act called "the Company") were incorporated, and authorized to construct certain waterworks for the purpose of supplying the parishes and places of Great Yarmouth, Great and Little Ormesby, Caistor, Gorleston, and Southtown, in the counties of Norfolk and Suffolk, with water from Ormesby Broad in the county of Norfolk: 16 & 17 Vict. c. xvii.

And whereas by "The Great Yarmouth Waterworks Act, 1857," (in this Act called "the Act of 1857,") the company were authorized to raise a further sum of money: 20 & 21 Vict. c. cxxx.

And whereas by the said Acts the company were authorized to raise eighty thousand pounds by shares and sixteen thousand pounds by borrowing, and their present share capital is seventy-two thousand and sixty pounds, and the amount of their mortgage debt is eleven thousand pounds, the whole of which sums of seventy-two thousand and sixty pounds and eleven thousand pounds have been raised and expended as authorized by the said Acts, and the company require more money for the purpose of extending their works and mains in various parts of their district, and for other purposes of their undertaking:

And whereas the company constructed the works authorized by the Act of 1853, and from the time of the completion of the said works a large and still greatly increasing number of the inhabitants of the town of Great Yarmouth and other places comprised within the limits of the said Acts, containing together a population of nearly forty thousand souls, have derived a supply of water from the said Ormesby Broad, and there is no other available source from which

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the said town and other places can derive an adequate supply of wholesome water:

And whereas it is expedient that the company should be authorized to acquire by agreement certain lands in the neighbourhood of their works at Ormesby:

And whereas it is also expedient to amend the provisions of the said Acts, and to enact other provisions with respect to water meters, and to the supply of water by the company, and to the conditions of such supply, and for the prevention of the abstraction, misuse, or illegal, wrongful, or improper use of the company's water:

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and of the 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 Great Yarmouth Waterworks Act, 1869."

8 & 9 Vict. c. 16. and 18., 23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 118. incorporated.

2. "The Lands Clauses Consolidation Act, 1845," (except the provisions thereof with respect to the purchase of lands otherwise than by agreement,) "The Lands Clauses Consolidation Acts Amendment Act, 1860," the provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the several matters following; (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 nonpayment 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 the borrowed money into capital;

The consolidation of the shares into stock; and

The provision to be made for affording access to the special Act;

also parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to cancellation and surrender of shares, to additional capital, and to debenture stock, 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 shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction:

"Superior courts" or "court of competent jurisdiction."

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 were a simple contract debt, and not a debt or demand created by statute, and shall apply to and include a county court.

Power to company to raise capital by new shares or stock.

4. The company, with the consent of three fifths of the votes of the shareholders present in person or by proxy at any general meeting or general meetings convened with special notice of the purpose, may raise, by the creation of new shares or stock, either ordinary or preference, or partly ordinary and partly preference, such additional capital beyond the amount which they may be authorized to raise by other Acts of Parliament as they think fit, not exceeding in the whole forty thousand pounds.

Shares or stock to form part of company's general capital.

5. All shares or stock to be created by the company under the authority of this Act shall, subject to the provisions of this Act, form part of the general capital of the company.

Shares not to issue until one fifth part paid up.

6. It shall not be lawful for the company to issue any share or stock to be created under the powers of this Act, nor shall any such share or stock vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share or stock shall have been paid up in respect thereof.

Limit of dividend on new capital.

7. The company shall not in any year make out of their profits any larger dividend on the additional share capital of forty thousand pounds to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid of such capital on ordinary shares, or six pounds in respect of every one hundred pounds actually paid of such capital on preference shares.

Debenture stock.

8. The company may create and issue debenture stock.

Power to borrow on mortgage.

9. When shares for the sum of ten thousand pounds, part of the sum of forty thousand pounds by this Act authorized to be raised by shares, have been created, issued, and accepted, and not less than one half of the said sum of ten thousand pounds has been paid up, the company may borrow on mortgage any sums of money not exceeding two thousand five hundred pounds; and when shares for the further sum of ten thousand pounds, making twenty thousand pounds by this Act authorized to be raised by shares, shall have been created, issued, and accepted, and not less than one half of the said further sum of ten thousand pounds has been paid up, the company may borrow on mortgage any sums of money not exceeding, with the first-mentioned sum of two thousand five hundred pounds, the sum of five thousand pounds; and when shares for the further sum

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of ten thousand pounds, making thirty thousand pounds by this Act authorized to be raised by shares, shall have been created, issued, and accepted, and not less than one half of the said last-mentioned sum of ten thousand pounds has been paid up, the company may borrow on mortgage any sums of money not exceeding, with the said sum of five thousand pounds, the sum of seven thousand five hundred pounds; and when shares for the whole of the said sum of forty thousand pounds by this Act authorized to be raised by shares shall have been created, issued, and accepted, and not less than one half of the last ten thousand pounds thereof has been paid up, the company may borrow on mortgage any sums of money not exceeding, with the said sum of seven thousand five hundred pounds, the sum of ten thousand pounds; but no part of any of the said sums of two thousand five hundred pounds shall be borrowed until the company have proved to the justice who is to certify, under the provisions of the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that shares for the whole of the said respective sum of ten thousand pounds in respect of which it is to be borrowed have been issued and accepted, and one half of such sum has been paid up, and that not less than one fifth part of the amount of each separate share has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons to whom the same was issued, or their assigns, and that such persons or their 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.

Priority of existing mortgages.

10. All mortgages granted by the company before the passing of this Act, and which shall be in force at the time of the passing of this Act, shall have priority over all mortgages granted by virtue of this Act.

Provisions of recited Acts with respect to the appointment of a receiver repealed.

11. The provisions of the recited Acts with respect to the appointment of a receiver, subject and without prejudice to any appointment of a receiver heretofore made, or to any proceedings under such appointment which may be pending at the time of the passing of this Act, shall be and the same are hereby repealed.

Arrears may be enforced by appointment of a receiver.

12. 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; and in order to authorize the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by

whom the application for a receiver is made shall not be less than ten thousand pounds in the whole. A.D. 1869.

13. All money raised under the powers of this Act by the creation of new shares or stock or on mortgage shall be applied only to the purposes authorized by the recited Acts and this Act, or any of them. Application of money raised under Act.

14. The company may, by agreement, purchase and may hold any lands within a distance of two hundred yards from their waterworks at Ormesby, not exceeding in the whole twenty acres. Power to purchase land by agreement.

15. For the purpose of preventing the waste, misuse, or undue consumption or contamination of the company's water, the company from time to time may prescribe the size, nature, strength, materials, mode of arrangement, and repair of the pipes, valves, cocks, cisterns, waterclosets, and other apparatus to be used, and may interdict any arrangement, and the use of any pipes, valves, cocks, cisterns, waterclosets, and other apparatus which in their judgment may tend to any such waste, misuse, undue consumption, or contamination. Regulations for preventing waste, &c., of water.

16. The company shall not be bound to supply any water unless the pipes, cocks, cisterns, waterclosets, or other apparatus to be used be made of such size, nature, strength, and materials, and be so arranged and repaired, as the company from time to time prescribe or approve; and in the event of any dispute as to whether such pipes, cocks, cisterns, waterclosets, and other apparatus are of such size, nature, strength, and material as aforesaid, or have been so arranged and repaired as prescribed and approved by the company, such dispute shall be settled by two justices, in the manner provided by "The Railways Clauses Consolidation Act, 1845," with respect to the recovery of damages not specially provided for, and of penalties, and for the determination of any other matter referred to justices. Conditions of supply.

17. Every person supplied with water by the company who wilfully or negligently suffers any pipe, valve, cock, cistern, watercloset, or other apparatus to be out of repair, or so used as that water supplied to him by the company is wasted or misused, so as to allow an undue consumption of the company's water, or to allow the return of foul air or other noisome or impure matter to return into the pipes belonging to the company or connected with the mains or pipes of the company, shall for every such offence forfeit to the company not exceeding five pounds. Penalty for waste of water by non-repair of pipes, &c.

18. The company may let for hire any meter or instrument for ascertaining the quantity of water consumed and supplied, and any Power to company to let for hire meters.

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pipes and apparatus for the conveyance and storage of such water, for such remuneration in money as is agreed upon between the company and the person to whom the same is so let; and such remuneration shall be recoverable in the same manner as the rates or sums due to the company for water; and such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any court of law or equity, or any fiat in bankruptcy, or any other legal proceeding against the person in whose possession the same are.

Power to company for ascertaining quantity consumed by meter, and for removing meters, &c.

19. The officers of the company may enter any house, building, or lands supplied by the company by measure, in order to inspect the meters, instruments, fittings, and works for regulating the supply of water, and for the purpose of ascertaining the quantity of water consumed or supplied, and may from time to time enter any house, building, or lands for the purpose of removing or carrying away any meter, instrument, pipes, fittings, or other works the property of the company; and if any person hinder any such officer from entering and making such inspection or effecting such removal, every person so offending shall for every such offence forfeit to the company a sum not exceeding five pounds: Provided always, that, except with the consent of a justice, such power of entry shall not be exercised at any hour not authorized by "The Waterworks Clauses Act, 1847."

Penalty on wrongful use of water.

20. Every person who, not having agreed to be supplied with water by the company, takes or uses any water from any reservoir, watercourse, conduit, or main belonging to the company, or any pipe leading to or from any such reservoir, watercourse, conduit, or main, or from any cistern or other like place containing water belonging to the company, other than any provided for the gratuitous use of the public, shall for every such offence forfeit to the company not exceeding ten pounds; and every person who, having agreed to be supplied with water by the company, wilfully takes or uses any water from any such reservoir, watercourse, conduit, or main, or from any such pipe, cistern, or other like place, for any other purpose than the purpose for which he so agreed, shall for every such offence forfeit to the company not exceeding ten pounds.

Water may be cut off in certain cases.

21. If any person supplied with water by the company wilfully do or cause or permit to be done anything in contravention of any of the provisions of the recited Acts and this Act respectively, or wilfully fail to do anything which under any of those provisions ought to be done for the prevention of waste, misuse, undue consumption, or contamination of the company's water, the company may cut off any of the pipes by or through which water is supplied

by them to him, and may cease to supply him with water so long as the cause of injury remains or is not remedied, and also may recover from him in any court of competent jurisdiction for the trial of causes of the like amount the amount of any loss, damage, or injury which the company sustain by reason of any such act or wilful failure.

Expenses of Act.

22. All the costs, charges, and expenses of and attending the obtaining and passing of this Act or incidental thereto shall be paid by the company.

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