CHAPTER ccxxxii.

An Act for conferring further powers on the Harrogate Waterworks Company for the construction of works and the raising of capital and for other purposes. A.D. 1897.

[6th August 1897.]

WHEREAS by the Harrogate Waterworks Act 1846 (in this Act referred to as "the Act of 1846") the Harrogate Waterworks Company (in this Act called "the Company") were incorporated and were empowered to construct works for the purpose of supplying with water the places in that Act mentioned and by the Harrogate Waterworks Act 1869 (in this Act referred to as "the Act of 1869") and the Harrogate Water Order 1880 (in this Act referred to as "the Order of 1880") further powers were conferred upon the Company and the limits of supply prescribed by the Act of 1846 were extended as in the Order of 1880 mentioned:

And whereas the demand for water within the said limits is rapidly increasing and it is expedient to empower the Company to construct the works by this Act authorised and to raise further moneys for the purposes of this Act and for the general purposes of their undertaking:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also a book 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 taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the west riding of the county of York and are herein-after respectively referred to as the deposited plans sections and book of reference:

And whereas the purposes 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

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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 Harrogate Waterworks Act 1897.

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 Acts :

The Waterworks Clauses Acts 1847 and 1863 except the words in section 44 of the former of such Acts " with the consent in " writing of the owner or reputed owner of any such house or " of the agent of such owner " :

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 the 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 ;
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 subsequent Acts.

Interpretation.

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 expression "the waterworks" means the waterworks and the works connected therewith by this Act authorised;

The expression "county council" means the county council of the west riding of the county of York;

The expression "the corporation" means the mayor aldermen and burgesses of the borough of Harrogate;

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 reservoir by this Act authorised;

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.

4. 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 and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference as may be required for those purposes The works herein-before referred to and by this Act authorised will be wholly situate in the west riding of the county of York and are—

(1) A reservoir (to be called the Scargill Reservoir) to be formed by means of an embankment to be placed across the brook or stream called Scargill Beck at a point nine hundred yards or thereabouts in a southerly direction from the junction of that stream with Beaver Beck:

(2) An alteration of the levels of the lower embankment of the existing Beaver Dyke Reservoir:

(3) An alteration in the line and levels of the embankment and road which cross the upper part of the said Beaver Dyke Reservoir and the extension of the said reservoir for a distance of six hundred yards or thereabouts in a westerly direction from the last-mentioned embankment and in connexion therewith the diversion of the occupation road leading to the said embankment for a length of one hundred yards or thereabouts at the northern end of the said embankment and the stopping up of the footpath leading across the said reservoir from Haverah Park Top Farm to the farmhouse in the occupation of Joseph Jackson:

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(4) A conduit or catchwater (No. 1) commencing in the Scargill Reservoir and terminating at the stream in the pasture field four hundred yards south of the existing embankment of Beaver Dyke Reservoir :

(5) A conduit or catchwater (No. 2) commencing in the said Beaver Dyke Reservoir and terminating at a point one hundred and fifty yards or thereabouts southward of High Bore Hole Plantation :

(6) A conduit or catchwater (No. 2A) commencing in the conduit or catchwater (No. 2) at a point in Low Scargill Plantation nine hundred yards from Beaver Dyke Reservoir and extending thence in a southerly direction for three hundred and thirty yards or thereabouts to High Scargill Plantation :

(7) A conduit or catchwater (No. 3) commencing in the said Beaver Dyke Reservoir and terminating at a point six hundred yards or thereabouts north of Central House Farm :

(8) A conduit or catchwater (No. 3A) commencing in the conduit or catchwater (No. 3) and terminating at or near a farmhouse called Long Liberty :

(9) A drain commencing at the said Long Liberty Farm and extending thence for a distance of two hundred and twenty yards in an easterly direction :

(10) A conduit or catchwater (No. 4) commencing in the existing reservoir called Ten Acres Reservoir and terminating at a point two hundred and thirty yards or thereabouts south of High Bore Hole Plantation :

(11) A conduit or catchwater (No. 5) commencing in the said Ten Acres Reservoir and terminating at a point one hundred and sixty yards or thereabouts from the north-west corner of Moor Park :

(12) A line of pipes (No. 1) commencing in the Scargill Reservoir and terminating at the existing reservoir of the Company situate on the south side of and adjoining Irongate Bridge Road :

(13) A line of pipes (No. 2) commencing at the termination of the line of pipes No. 1 and terminating at a point near Harlow Hill Observatory :

(14) A line of pipes (No. 3) commencing near Harlow Hill Observatory and terminating at a point in Pannal Ash Road near Wellfield Lodge :

All such cuts channels adits catchwaters aqueducts culverts tunnels drains sluices byewashes weirs gauges reservoirs wells tanks banks walls approaches engines machinery and appliances as may be

necessary or convenient in connexion with the before-mentioned works or any or either of them. A.D. 1897.

Deviation.

5. In constructing the works by this Act authorised the Company may deviate laterally from the lines thereof shown on the deposited plans to any extent not exceeding the limits of lateral deviation shown or described on the said plans and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding in any one place five feet as regards the alterations of the embankments of the Beaver Dyke Reservoir and ten feet as regards the other works by this Act authorised Provided that no part of any line of pipes shall be constructed or laid so as to be above the general surface of the ground unless it be so shown on the deposited sections nor to a greater height than is so shown Provided also that the Company shall not in the exercise of the power of lateral deviation hereby given construct any embankment or wall of the Scargill Reservoir of a greater height above the general surface of the ground than that shown on the deposited sections and five feet in addition.

For protection of west riding county council.

6. In executing the works and exercising the powers by this Act authorised so far as they affect the main roads and county bridges of the west riding of the county of York the following provisions for the protection of the county council (in this section called "the council") shall have effect unless otherwise agreed on in writing between the council and the Company (that is to say):—

(1) All conduits mains or lines of pipes to be laid in or along any main road shall be constructed and laid in such position at the side thereof as the council shall by writing under the hand of their surveyor direct and shall not be constructed or laid in upon or across any county or main road bridge or any arch connected therewith but shall be carried over the stream crossed by such bridge by means of wrought iron riveted tubing or other suitable method to be agreed on between the parties entirely separate from and independent of such bridge or arch and the gradient of such bridge and of the respective approaches thereto shall not be altered:

(2) All works to be constructed or laid in along or across or in any way affecting any main road or county or main road bridge or any approach thereto shall be executed at the expense of the Company under the superintendence and to the reasonable satisfaction of the surveyor to the council and in accordance with plans sections and specifications to be submitted to and approved of by him in writing before the commencement of

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any such work Provided that if he shall not within one month after the same shall have been submitted so express his approval or disapproval thereof or signify his requirements in relation thereto he shall be deemed to have approved thereof:

(3) The works shall be so executed as not in any way to stop or unreasonably interfere with the traffic of any main road or county or main road bridge or any approach thereto:

(4) The Company shall pay to the council the reasonable costs in relation to the examination of the said plans sections and specifications and the superintendence by this Act authorised:

(5) Notwithstanding anything in this Act contained it shall be lawful for the council at any time or times to divert or improve any main road and also to remove alter or renew any such county or main road bridge or the approaches thereto in alongside or near to which any such conduit main or line of pipes is carried in the same manner as they might have diverted or improved removed altered or renewed any such main road or bridge or the approaches thereto if this Act had not been passed and such conduit main or line of pipes had not been constructed or laid in alongside or near to such main road or bridge respectively without making any compensation to the Company for any expense or loss to which the Company may be put in consequence of such diversion improvement removal alteration or renewal And in the event of any such main road or bridge or the approaches thereto in alongside or near to which the conduit main or line of pipes is laid being diverted or improved removed altered or renewed as aforesaid the Company shall at their own expense alter the position of the works by which such conduit main or line of pipes is carried alongside or near to any such main road or bridge or the approaches thereto as aforesaid and replace the same to the satisfaction of the said surveyor of the council Provided that before and during such diversion improvement removal alteration or renewal of any such main road or bridge as aforesaid the council shall afford at the cost of the Company all reasonable facilities for temporarily carrying such conduit main or line of pipes along the main road or across the stream so as not to interrupt the continuous supply of water:

(6) If any difference arises between the Company and the council touching this section or anything to be done or not to be done thereunder such difference shall be settled by an engineer to be appointed by the Board of Trade on the application of either of the parties in difference and his decision shall be conclusive and the costs of the reference shall be borne as he shall direct.

Works to form part of undertaking of Company.

7. The works by this Act authorised shall for all purposes whatsoever form part of the Company's waterworks and shall be comprised in the Company's undertaking.

Drainage from Long Liberty Farm to be purified.

8. The Company shall effectually purify any drainage from the drain commencing at the Long Liberty Farm by this Act authorised which contains sewage or other doleterious matter before it reaches any river or stream.

Power to take waters.

9. The Company may collect take and divert and may appropriate and use for the purposes of this Act and for the general purposes of their undertaking the waters of Scargill Beck and the tributaries of Oak Beck and of any other streams brooks or springs which may be found in upon or under any lands which may be acquired by the Company under the powers of this Act or now belonging to them or which may be diverted or intercepted by the works by this Act authorised.

Compensation water.

10. With respect to the water to be taken and the compensation water to be afforded by the Company the following provisions shall have effect (that is to say) :—

(1) From and after the date on which the Company first commence to use any water impounded by means of the Scargill Reservoir the Company shall discharge from the said reservoir at least one hundred and twenty-six thousand gallons of water per day of twenty-four hours as compensation water and such discharge shall be regular and continuous throughout each day :

(2) Before commencing to take appropriate or use any waters which can be diverted or intercepted by the Conduit or Catchwater No. 2 by this Act authorised the Company shall discharge as compensation water at least twenty-five thousand gallons of water per day and before commencing to take appropriate or use any waters which can be diverted or intercepted by the Conduit or Catchwater No. 3 by this Act authorised the Company shall discharge as compensation water at least forty thousand gallons per day and before commencing to take appropriate or use any waters which can be diverted or intercepted by the Conduits or Catchwaters Nos. 4. and 5 by this Act authorised the Company shall discharge as compensation water at least nine thousand gallons of water per day and each of the said quantities of twenty-five thousand gallons forty thousand gallons and nine thousand gallons shall be so discharged regularly and continuously throughout each day in addition to any other compensation water by this Act required to be discharged :

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(3) Such compensation water shall be delivered into the Oak Beck and its tributaries down such streams and in such proportions and by means of such pipes gauges and other works as may be agreed between the Company and Sir Henry Day Ingilby Baronet his heirs or assigns (in this section referred to as "the owner") or determined and awarded by a hydraulic engineer to be appointed as herein-after provided upon the application of the Company or the owner with a view to ensuring a supply to any streams affected by any of the works by this Act authorised and the Company shall bear and pay the expenses of such determination and award and of the proceedings preliminary thereto and consequent thereon including the remuneration of the engineer and shall also pay the reasonable costs of the owner incurred in or about the determination award and proceedings aforesaid and the Company shall before taking for the purpose of supply any water under the powers of this Act construct such pipes gauges and other works as the said engineer shall determine as aforesaid and shall for ever thereafter maintain the same in good working order and condition:

(4) The said gauges and other works respectively shall at all reasonable times be open to the inspection and examination of the county council and of their engineers and other officers duly authorised and of the owner or his agent:

(5) If at any time any such gauge or other works shall be out of repair or in an unfit condition for the purpose for which it is intended the Company shall forthwith put the same in fit repair and condition and if they fail to do so within seven days after notice in writing given to them in that behalf by or on behalf of the county council or the owner then the county council or the owner as the case may be may cause the said gauge or other works to be put in fit repair and condition and may recover the reasonable cost of so doing from the Company with full costs of the proceedings in any court of competent jurisdiction:

(6) In the case of the failure of the Company to send down or deliver the said respective quantities of water the Company shall be liable to pay to the county council and the owner respectively the sum of three pounds for every day in which any such default shall occur any sum so payable to be recoverable summarily with the costs of the proceedings by the county council and the owner or either of them:

(7) If any difference shall arise between the Company and the county council or the owner as the case may be with respect

to the construction and use of the said gauges or other works or any of them such difference shall be settled and determined by a hydraulic engineer to be nominated (unless otherwise agreed on between the parties in difference) on the application of either party (after seven days notice in writing to the other of them) by the President of the Institution of Civil Engineers and the costs of and incidental to the investigation and determination shall be borne as the said engineer shall determine :

(8) The provisions of this section shall be accepted and taken by all persons and companies interested as full compensation for all water the Company may or can at any time collect divert impound and abstract from the streams and waters authorised by this Act to be taken for the purpose of their waterworks.

For the protection of Sir Henry Day Ingilby Bart. and his sequels in estate.

11. For the protection of Sir Henry Day Ingilby Baronet and his heirs and assigns (in this section referred to as and included in the expression "the owner") and of the estate in the west riding of the county of York known as the Haverah Park Estate the following provisions shall unless otherwise agreed between the Company and the owner have effect (that is to say) :—

(1) All works by this Act authorised to be constructed by the Company on any land forming part of the Haverah Park Estate including alterations of existing works of the Company situate on that estate shall notwithstanding anything in this Act be fully completed in accordance with the deposited plans and sections within five years from the date of the commencement of any works on the said estate :

(2) From the said date of completion or the date when the Company first commence to take divert appropriate or use any of the waters which by this Act they are authorised to divert appropriate or use whichever shall first occur the Company shall supply free of cost to all tenants (including the owner in the case of the lands in hand) of lands forming part of the said estate situate below the level of the catchwaters or Scargill Reservoir by this Act authorised who shall by notice in writing require them so to do a supply of water sufficient for the domestic and agricultural purposes of such tenants other than irrigation such supply shall be afforded continuously under such pressure as can be obtained by gravitation from the Scargill Reservoir and the Company shall at their own expense construct and for ever thereafter maintain to the satisfaction of the owner all necessary pipes valves cisterns and other works as may reasonably be required for the purpose of

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providing such supply and enabling the tenants to utilise the same:

(3) The Company shall erect and maintain to the satisfaction of the owner a sufficient stone wall of not less than four feet in height round the reservoirs by this Act authorised to be constructed or altered and shall not place or continue any wire fencing on any lands within the boundaries of the said estate:

(4) The Company shall construct and maintain such and so many bridges over any open catchwaters which may be constructed by the Company under the powers of this Act as the owner may reasonably require for the purpose of securing communication between portions of the estate severed thereby:

(5) The Company shall not purchase any greater quantity of land forming part of the said estate than is required for the purposes of the Scargill Reservoir and the alteration of the Beaver Dyke Reservoir authorised by this Act For the purposes of the catchwaters and lines of pipe by this Act authorised and of a road as herein-after mentioned it shall be lawful for the Company to purchase an easement only of using such portions of the said estate as the Company require to use for the purpose of constructing and thereafter obtaining access to such catchwaters and lines of pipe for purposes of repair cleansing or renewal and of constructing and maintaining a road from the Norwood Lane or Almscliffe Road to the Scargill Reservoir and thence to the Beaver Dyke Reservoir:

(6) On completion of any catchwater or line of pipe by this Act authorised (other than open catchwaters) or of any repairs of the said works the Company shall soil over the surface of the ground so as to restore the surface as nearly as may be to its former state to the reasonable satisfaction of the owner And the Company shall to the like satisfaction trim soil over and sow down to permanent grass all cuttings and embankments upon any lands acquired by the Company and shall in like manner restore all portions of the Haverah Park Estate from which grass or surface soil shall have been removed and shall on the completion of any works remove all spoil banks which may have been deposited on any lands acquired by them or on any lands forming part of the said estate and on the completion of the Scargill Reservoir shall take up and remove the existing pipe between the Scargill Beck and the Beaver Dyke Lower Reservoir and shall to such satisfaction as aforesaid restore trim and soil over the site thereof:

(7) The aforesaid road shall be made and completed to the reasonable satisfaction of the owner and proper provision made to the like satisfaction by gates or otherwise to preserve existing fences and enclosures and the Company shall thereafter maintain such road and gates or other works to the like satisfaction The owner his tenants and servants shall at all times have the right to use the aforesaid roads and any other roads constructed by the Company on land forming part of the said estate acquired by or leased to them :

(8) The Company shall construct maintain and keep the reservoirs and all works in connexion therewith for conveying water through the said estate watertight in all respects and shall from time to time make good all damage done to the estate of the owner or to his tenants by reason of the leaking of any of the said works :

(9) The Company shall not except during the construction of the works by this Act authorised erect or permit the erection of any engine-house boiler-house chimney or other structure on the estate other than one caretaker's house to each of the three reservoirs and the buildings for each of the necessary measuring apparatus :

(10) The owner his family friends and servants shall have the exclusive right of shooting fishing and sporting over all or any part of the lands within the boundaries of the said estate now in the occupation of the Company or which may be acquired by them under the powers of this Act and all reservoirs and works of the Company provided that in the exercise of such rights the owner shall not foul the waters of any reservoir belonging to the Company or in any way injure the works of the Company on the estate :

(11) It shall be lawful for the Company for the purpose of obtaining access to their existing works and their works by this Act authorised to use the roads coloured brown on the plan signed by Sir William Coddington Baronet the Chairman of the Committee of the House of Commons to whom the Bill for this Act was during its passage through Parliament referred and deposited in the Private Bill Office of the House of Commons and in addition thereto the Company shall until the completion of the works by this Act authorised be entitled to use for the purpose of obtaining access to such works the roads coloured yellow on the said plan And the Company shall keep the roads which they are for the time being so entitled to use in good repair and condition to the reasonable satisfaction of the owner :

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(12) Except as by this section expressly provided the Company shall notwithstanding anything in any previous Act or agreement have no right of way or access over the Haverah Park Estate other than a right of way over the line of any existing pipe for the purposes of repairing renewing or inspecting the same:

(13) If any difference shall arise with respect to any matter under this section between the owner and the Company or their respective engineers the matters in difference shall be referred to and settled by an arbitrator to be appointed on the application of either party by the President of the Institution of Civil Engineers.

For prevention of plumbism.

12.—(1.) All water supplied by the Company whether in bulk or otherwise and used for dietetic purposes shall before delivery be efficiently and continuously filtered through such material or shall be chemically treated so as to prevent the action of such water on lead or on any material used for the construction of pipes cisterns or other receptacles into the manufacture of which lead enters in a manner injurious or liable to prove injurious to public health.

(2.) The Company shall forthwith construct and thenceforward maintain the necessary apparatus and appliances to prevent such action.

(3.) If the Company shall fail to construct such apparatus or appliances or apply such treatment as shall efficiently prevent such action or shall fail thenceforward to efficiently maintain the same or shall at any time supply water in such a condition as to be capable of such action they shall be liable to a penalty not exceeding ten pounds for every day on or on any part of which any infringement of this section shall occur and such penalty shall be recoverable at the instance of the county council or of the district council of any area supplied by the Company.

(4.) For the better enforcement of the provisions of this section any person duly authorised by the county council may at any time enter on the property of the Company for the purpose of inspecting the apparatus and appliances and materials used for filtering or treating the water as the case may be and may take and carry away samples of the water at or near to the point where it passes into the mains or conduits of the Company for the purpose of distribution in duplicate and shall thereupon before he carries away the same from the property of the Company seal up and mark the several samples and shall leave one of such samples with the person if any in charge of the property and any person who molests hinders or obstructs any such person in the performance of his duty under this section shall be liable to a penalty not exceeding

five pounds for every such offence Provided however that no such sample shall be used for the purpose of recovering any penalty under subsection 3 of this section unless such sample shall have been taken in the presence of an officer of the Company duly authorised and shall have been marked at the time as having been so taken.

(5.) All penalties under this section shall be recovered summarily.

Period for compulsory purchase of lands.

13. 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.

Power to acquire additional lands by agreement.

14. In addition to the lands which the Company are by this Act authorised to purchase compulsorily they may for any of the purposes of this Act by agreement purchase any additional quantity of land not exceeding in the whole ten acres or any easement right or privilege (not being an easement right or privilege of water in which any persons other than the grantors have an interest) in or over such additional lands which they may from time to time think requisite Provided that the Company shall not cause or permit a nuisance on any such lands and shall not on any such lands erect or authorise or permit the erection of any buildings other than buildings connected with or necessary for their undertaking.

Restriction on taking houses of labouring class.

15. The Company shall not under the powers of this Act purchase or acquire in any urban district or in any parish or part of a parish not being within an urban district ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

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 such persons who may be residing with them.

Period for completion of works.

16. If the reservoir authorised by this Act is not completed within seven years from the passing of this Act and if the other works shown on the deposited plans are not completed within ten years from the passing of this Act then on the expiration of those periods the powers by this Act granted to the Company for

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executing such works respectively or in relation thereto shall cease except as to so much thereof as is then completed Provided always that nothing in this section shall prevent the Company from enlarging altering and renewing any of their mains pipes or other works from time to time as occasion may require.

Power to take easements &c. by agreement.

17. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which any persons other than the grantors have an interest) 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.

Contracts for supplying water for public purposes.

18. The Company may enter into and carry into effect agreements with any county district or parish council public body company or person for the supply by the Company of water (either within or without their limits of supply) to such council body company or person respectively in bulk or otherwise and for any public sanitary trading or other purposes and the agreements respectively may be for such times and for such remuneration and on such terms and conditions whatsoever as the contracting parties think fit Provided that such supply do not interfere with the supply of water for domestic purposes within the limits of supply Provided also that such supply shall not be given in any place without the limits of supply except with the consent of the local authority or of any company supplying water under statutory powers.

Power to raise additional capital.

19. 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 seventy-two 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 accepting the same unless and until the full price of such share or stock including 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 premium which may be obtained on the sale thereof the sum of ninety thousand pounds.

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

20. 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.

21. 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.

22. 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 on the additional share capital limited.

23. 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 than six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

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

24. 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.

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

25. 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 of 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

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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 to be paid within three months.

26. It shall be one of the conditions of any sale of shares or stock under this Act that the full price thereof including 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.

27. 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 Harrogate to the clerk of the council of every district wholly or partly within the limits of supply 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.

28. 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 the provisions of this Act with respect to the sale of shares or stock created under the powers of this Act but at a lower reserved price than the price put upon the same at the preceding offer thereof for sale by auction or tender and the reserve put upon such shares or

stock may upon such second auction or tender if the directors of the Company think fit be less than the nominal amount thereof 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 until the whole of such shares or stock is sold.

Application of premium arising on issue of shares or stock.

29. 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.

Preference shares or stock may be created subject to redemption.

30. Any preference shares or stock created and issued under the powers of this Act or of any of the former Acts may be issued subject to the condition that the same may be redeemed by the Company at such price at such times and on such terms and conditions as shall be expressed on the certificates of such shares or stock.

Power to borrow in respect of additional capital.

31. The Company may in addition to the moneys which they are authorised to borrow by the former Acts from time to time subject to the provisions of this Act borrow on mortgage of their 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.

32. 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

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preferential are limited to a rate not exceeding five pounds per centum per annum.

Priority of principal moneys secured by existing mortgages.

33. 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 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.

For appointment of receiver.

34. Every provision in any Act or Order 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 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 four thousand pounds in the whole.

Power to create debenture stock.

35. 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.

36. If any money is payable to a shareholder stockholder mortgagee 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.

37. 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 Acts or in respect of any rent or sum reserved by or payable under any lease granted or made 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.

38. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Act and of the Company's undertaking being in all cases purposes to which capital is properly applicable and the Company may apply to the purposes of this Act to which capital is properly applicable any moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised.

Powers of Act not to be exercised by Company in certain events.

39. And whereas a Bill has been introduced into Parliament intituled "An Act to authorise the mayor aldermen and burgesses "of the borough of Harrogate to purchase the undertaking of the "Harrogate Waterworks Company and for other purposes" Therefore in the event of the said Bill passing into law and becoming an Act (in this section called "the Corporation Act") the Company shall not exercise any of the powers conferred upon them by this Act until the expiration of three months after the passing of the Corporation Act and if within the said period of three months the corporation shall have given notice to treat for the purchase of the undertaking of the Company under the provisions of the Corporation Act the powers of this Act shall not be exercised by the Company.

Saving rights of the Duchy of Lancaster.

40. Nothing contained in this Act shall extend or operate to authorise the Company to take use enter upon or in any manner interfere with any land soil water or hereditaments or any land parcel of any manor or any manorial rights or any other rights of whatsoever description belonging to Her Majesty in right of Her Duchy of Lancaster without the consent in writing of the Chancellor for the time being of the said Duchy first had and obtained (which consent the said Chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by Her Majesty in right of Her said Duchy.

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Costs of Act.

41. 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 subject to the provisions of the Harrogate Corporation (Waterworks Transfer) Act 1897 be paid by the Company.

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