CHAPTER iv.

An Act for conferring further powers upon the Herne Bay Waterworks Company and for other purposes. A.D. 1899.

[6th June 1899.]

WHEREAS by the Herne Bay Waterworks Act 1867 (herein-after called "the Act of 1867") the Herne Bay Waterworks Company (herein-after called "the Company") were incorporated and the limits of the Company for the supply of water were defined as including the town of Herne Bay and the parish of Herne in the county of Kent:

And whereas by the Herne Bay Water Orders 1871 1883 and 1888 the Company were authorised to raise additional capital and by the Order of 1883 the limits of supply were extended to and included the parishes of Hoath and Reculver in the said county of Kent:

And whereas the capital of the Company now consists of seventeen thousand four hundred and eighty pounds preference stock five thousand nine hundred and seventy pounds ordinary stock and five thousand nine hundred and fifty pounds debenture stock:

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

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 (that is to say):—

1. This Act may be cited as the Herne Bay Water Act 1899 and the recited Acts and Orders and this Act may be cited together as the Herne Bay Water Acts 1867 to 1899. Short title.

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Incorporation of general Acts.

2. The clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The 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;

and 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 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

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.

Power to acquire additional lands by agreement.

4. The Company may in addition to the lands now belonging to them from time to time by agreement purchase or take for any of the purposes of the undertaking any additional quantity of land not exceeding in the whole ten acres or any easement or right (not being an easement right or privilege of water in which other than parties to the agreement are interested) in or over such additional lands or otherwise which they may from time to time think requisite for any of the purposes of their undertaking and may thereon execute for the purposes of or in connexion with such undertaking any of the works mentioned in section 12 of the Waterworks Clauses Act 1847 Provided that the Company shall not on any such lands create or permit any nuisance or erect or authorise or permit the erection thereon of any buildings other than buildings connected with or necessary for their undertaking.

Power to hold lands for protection of works.

5. The Company may hold any lands for the time being vested in them which it may in their opinion be desirable to hold for the

purpose of protecting their waterworks or water supply against pollution nuisance encroachment or injury and so long as it shall in the opinion of the Company be desirable to continue to hold such lands the same shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts Provided that the Company shall not create or permit a nuisance on or erect or authorise or permit the erection on any lands so held by them of any buildings other than buildings incident to or connected with their undertaking.

Power to erect &c. cottages for officers and servants.

6. The Company may from time to time on any land for the time being belonging to them erect fit up maintain and let houses cottages and buildings for any officers and servants employed by the Company for the purposes of their undertaking.

Power to sell &c. lands.

7. The Company may sell lease or exchange any lands for the time being vested in them to such person as they may think fit and in any such sale lease or exchange the Company may reserve to themselves all or any waters or water rights or other easements in relation thereto and may make such sale lease or exchange subject to such conditions restrictions and provisions with respect to the user of such lands or the carrying on of noxious trades or discharge or deposit of sewage thereon or other like matters as the Company may think fit.

Restriction on taking houses of labouring class.

8.—(1.) The Company shall not under the powers of this Act purchase or acquire by agreement 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.

(2.) If the Company acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provision they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if it think fit reduce such penalty.

(3.) For the purpose of this section the expression "labouring class" means mechanics artizans 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

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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.

Power to raise additional capital.

9. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys they may have already raised or are authorised to raise and may from time to time raise additional capital to such nominal amount as shall be sufficient to produce including the premiums if any which may be obtained on the sale thereof the sum of twenty thousand pounds by the creation and issue of new ordinary shares or stock or new preference shares or stock or wholly or partly by one or more of those modes respectively but the Company shall not issue any share 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 (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 the amount of preference shares or stock authorised to be created and issued by this Act shall not exceed ten thousand pounds.

Incidence of additional capital.

10. Subject to the provisions of this Act the new capital created by the Company under this Act by shares or stock shall be part of the general capital of the Company and save as by this Act otherwise expressly provided the holders of shares or stock therein shall be entitled to the like rights of voting and other rights qualifications and privileges in proportion to the amount of their shares or stock and be subject to the like provisions liabilities and forfeitures as the holders of shares or stock in the existing capital of the Company of the same class or description.

Limit of profit on additional capital.

11. The Company shall not in any one year pay out of their profits any larger dividend on the additional 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 yearly rate and six pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as preference capital.

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

12. 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 bid or tender shall be allowed to any holder of shares or stock in the Company except that if any bid or offer by tender of any holder or holders of shares or stock in the Company be the same in amount as any bid or offer made by any other person the bid 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.

13. 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.

14. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the clerk of every district council of any district wholly or partly included within the limits of the Company for the supply of water 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 limits of supply.

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

15. 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 and stock created under the powers of this Act except that the reserved price 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

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nominal amount thereof and any shares or stock not then sold by auction or tender 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.

Application of premium arising on issue of shares or stock.

16. Any sum of money which shall arise from the issue of any such shares or stock by way of premium 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 Provided that for the purposes of ascertaining (A) the maximum amount of the reserve fund of the Company and (B) the amount which the Company may borrow under this Act the sums received by way of premium as aforesaid shall be reckoned as part of the nominal or paid-up capital of the Company.

Power to borrow.

17. 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.

Appointment of receiver.

18. Section 12 of the Act of 1867 (Arrears may be enforced by appointment of a receiver) and section 20 of the Order of 1883 and section 21 of the Order of 1888 (Appointment of a receiver) are hereby repealed but without prejudice to any appointment heretofore made or to any proceedings pending at the passing of this Act and in lieu thereof 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 authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand pounds in the whole.

Debenture stock.

19. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of this Act but notwithstanding anything contained in the recited Acts or Orders or either of them the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under the recited Acts or Orders or this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank pari passu (without respect to the dates of the securities or of the Acts of Parliament or Orders or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock issued by the Company after the passing of this Act.

Priority of mortgages and debenture stock over other debts.

20. All money to be raised by the Company under the provisions of this Act on mortgage or by the issue of debenture stock 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 in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest or dividend on their mortgages or debenture stock.

Application of moneys.

21. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act and for the general purposes of the Company being in all cases purposes to which capital is properly applicable.

Notice of discontinuance.

22. A notice of the Company from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing and be left at the office of the Company at Herne Bay or be sent by post addressed to the secretary of the Company at their principal office.

Form and service of notices by Company.

23. Any notice to be served by the Company on a person supplied with water shall be sufficiently authenticated by the name of the secretary or manager of the Company or if it be a notice to pay any charge in respect of a supply of water by the name of the collector of the Company being affixed thereto or by a stamp and any such notice may be served on such person by delivering the same to or at the residence of such person or where such person is

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the owner or occupier of premises in respect of which the notice is given by delivering the same or a true copy thereof to some person on the premises or if there is no person on the premises who can be so served by affixing the same on some conspicuous part of the premises or such notice may be served by post.

Expenses of Act.

24. The costs charges and expenses preliminary to and of and incidental to the preparing of 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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