CHAPTER cxxxvii.

An Act for incorporating and conferring powers on the Queenstown Waterworks Company. [12th July 1882.] A.D. 1882.

WHEREAS in the year one thousand eight hundred and fifty-seven certain persons formed themselves into a company under the name of the Queenstown Waterworks Company Limited herein-after referred to as the Limited Company for the purpose of supplying with water the town of Queenstown and its vicinity and generally for carrying on the business usually carried on by water companies and such Company was duly registered under the Joint Stock Companies Act 1856: 19 & 20 Vict. c. 47.

And whereas the present share capital of the Limited Company consists of five thousand pounds divided into five hundred shares of ten pounds each the whole of which has been paid up and the said Company have borrowed on mortgage two thousand four hundred and fifty pounds which sum is still due and owing by them:

And whereas in addition to the said sums respectively paid up on share capital and borrowed on mortgage there has been expended by the Limited Company on their works and undertaking a sum of about one thousand five hundred pounds out of revenue and also a sum of about four thousand three hundred pounds provided from other sources:

And whereas the Limited Company are possessed of certain lands reservoirs springs waters streams pipes and other works and they are now supplying the said town of Queenstown with water:

And whereas the demand for water within the district and vicinity supplied by the Limited Company has of late years increased and is still increasing:

And whereas it is expedient that the Limited Company should be dissolved and that the members of the Limited Company and others should be incorporated into a company (in this Act called "the Company") and authorised to maintain and continue the existing waterworks of the Limited Company and to make and maintain

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additional waterworks and to supply water within the limits in this Act mentioned and otherwise to carry the undertaking into execution and to acquire additional lands and raise further capital as by this Act provided:

And whereas it is expedient that the Company should be authorised to sell and that the town commissioners of Queenstown should be authorised to purchase the undertaking:

And whereas it is expedient that such further provisions should be made with respect to the Company and their undertaking as are in this Act contained:

And whereas plans of the lands above referred to and plans and sections showing the lines and levels of the intended works and also books of reference to the plans 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 of this Act were duly deposited with the clerks of the peace of the county of Cork which plans sections and books of reference are in this Act referred to as the deposited plans sections and books of reference:

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 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 Queenstown Waterworks Act 1882.

Incorporation of Acts.
8 & 9 Vict. c. 16.
26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.
8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
10 & 11 Vict. c. 17.
26 & 27 Vict. c. 93.
14 & 15 Vict. c. 70.
23 & 24 Vict. c. 97.
27 & 28 Vict. c. 71.
31 & 32 Vict. c. 70.

2. The Companies Clauses Consolidation Act 1845 and Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 the Companies Clauses Act 1869 the Lands Clauses Consolidation Act 1845 the Lands Clauses Consolidation Acts Amendment Act 1860 and the Waterworks Clauses Acts 1847 and 1863 the Railways Acts (Ireland) 1851 1860 and 1864 and the Railways Traverse Act 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 have the same respective meanings unless there be something in the subject or context repugnant to such construction. The expression "the waterworks" and "the undertaking" means and includes the waterworks by this Act authorised to be constructed

and also the existing waterworks of the Limited Company by this Act vested in and authorised to be held made maintained and continued by the Company and all the lands buildings estate right title property privileges effects and undertaking of the Company. The expression "Local Government Board" means the Local Government Board for Ireland. The expression "the commissioners" means the town commissioners of Queenstown acting under the Towns Improvement (Ireland) Act 1854 and as the urban sanitary authority of the said town under the Public Health (Ireland) Act 1878.

17 & 18 Vict. c. 103. 41 & 42 Vict. c. 52.

Limits of Act.

4. The limits of this Act for the supply of water by the Company shall comprise the township of Queenstown the Great Island Cork Harbour and the parishes of Clonmel and Templerobin all in the county of Cork.

Dissolution of Limited Company and incorporation of Company.

5. From and after the passing of this Act the Limited Company shall be dissolved and the several persons and corporations who immediately before the passing of this Act were members of that Company and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking of the Company and their executors administrators successors and assigns respectively shall be and are hereby united into a company for the purpose of continuing making and maintaining waterworks and supplying water within the limits of this Act and carrying on the business of a waterworks company and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of "the Queenstown Waterworks Company" and by that name shall be a body corporate with perpetual succession and a common seal with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Present property of Limited Company vested in Company

6. Subject to the provisions of this Act the waterworks and the undertaking which immediately before the passing of this Act were the property of or vested in the Limited Company or any person in trust for them or to which the Limited Company were in anywise entitled and all moneys securities credits effects and other property whatsoever which immediately before the passing of this Act belonged to the Limited Company or to any trustee on their behalf and the benefit of all contracts and engagements entered into by or on behalf of the Limited Company and immediately before the passing of this Act in force shall be and the same are hereby vested in the Company to the same extent and for the same estate and interest as the same were previously to the passing of this Act vested in the Limited Company or any trustee on their behalf and

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may according to the provisions of this Act be held and enjoyed sued for recovered dealt with and disposed of by the Company as they think fit.

Memorandum and articles of association of the Limited Company to be void without prejudice to remedies for antecedent breaches thereof.

7. Subject to the provisions of this Act the memorandum and articles of association of the Limited Company shall as to any prospective operation thereof be wholly void and the Company and the shareholders shall be exempted from all the provisions restrictions and requirements of any Act which applied to the Limited Company and the members thereof as such but nothing in this Act contained shall release or discharge any person from any liability or obligation in respect of any breach of the provisions of the said memorandum or articles of association incurred before the passing of this Act but such liability or obligation in respect of any such breach shall continue and save as in this Act otherwise provided may be enforced by or on behalf of the Company as nearly as may be in like manner as the same might have been enforced by or on behalf of the Limited Company if this Act had not been passed.

Nothing to affect previous rights and liabilities.

8. Except as is by this Act otherwise expressly provided everything before the passing of this Act done and suffered by or with reference to the Limited Company or the members thereof as such shall be as valid as if the Company had not been incorporated and the said memorandum and articles of association had not been avoided by this Act and such incorporation and avoidance and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered and to all rights liabilities claims and demands both present and future which if the Company were not incorporated and the said memorandum and articles of association were not avoided by this Act and this Act were not passed would be incident to or consequent on any and everything so done or suffered and with respect to all such rights liabilities claims and demands the Company and its shareholders and property shall to all intents and purposes represent the Limited Company and the members thereof as such and the property of the Limited Company as the case may be and the generality of this enactment shall not be restricted by any of the other clauses and provisions of this Act.

Contracts prior to Act to be binding.

9. Except as is by this Act otherwise specially provided all purchases sales conveyances grants assurances deeds contracts bonds and agreements entered into or made before the passing of this Act by to or with the Limited Company or any trustees or persons acting on behalf of the Limited Company or by to or with any other person to whose rights and liabilities they have succeeded and now in force shall be as binding and of as full force and effect in every respect against or in favour of the Company and may be enforced

as fully and effectually as if instead of the Limited Company or the trustees or persons acting on behalf of the Limited Company the Company had been a party thereto. A.D. 1882.

Actions &c. not to abate.

10. Nothing in this Act contained shall release discharge or suspend any action suit or other proceeding at law or in equity which was pending by or against the Limited Company or any member thereof in relation to the affairs of the Limited Company or to which the Limited Company or any member thereof in relation to such affairs were parties immediately before the passing of this Act but such action suit or other proceeding may be maintained prosecuted or continued by or in favour of or against the Company (as the case may be) in the same manner and as effectually and advantageously as the same might have been maintained prosecuted or continued by or in favour of or against the Limited Company or any member thereof if this Act had not been passed the Company and the shareholders therein being in reference to the matters aforesaid in all respects substituted for the Limited Company and its members respectively.

Trustees of Limited Company to be indemnified.

11. Every trustee or other person in whom or in whose name any lands works buildings easements rights property or effects belonging to the Limited Company were vested immediately before the passing of this Act and who (being authorised so to do) entered into any bond covenant contract or engagement in respect of the same or otherwise on behalf of the Limited Company shall be indemnified out of the funds and property of the Company against all liability (including costs charges and expenses) which he may sustain or incur or be put unto by reason of his having entered into such bond covenant contract or engagement.

Company to satisfy liabilities of Limited Company.

12. From and after the passing of this Act and except as is by this Act otherwise expressly provided the Company shall in all respects be subject to and shall discharge all obligations and liabilities to which the Limited Company immediately before the passing of this Act were subject and shall indemnify the members directors officers and servants of the Limited Company and their respective representatives from all such obligations and liabilities and from all expenses and costs in that behalf.

Recovery of water rates &c.

13. All water rates and rents and other sums of money which immediately before the passing of this Act were due or accruing to the Limited Company shall be payable to and may be collected and recovered by the Company in like manner as if they had become payable for the like matters supplied or done under this Act.

As to payment of debts owing before

14. All persons who immediately before the passing of this Act owed any money to the Limited Company or to any person on their

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passing of Act.

behalf shall pay the same with all interest (if any) due or accruing upon the same to the Company and all debts and moneys which immediately before the passing of this Act were due or recoverable from the Limited Company or for the payment of which the Limited Company were or but for this Act would be liable shall be paid with all interest (if any) due or accruing upon the same by or be recoverable from the Company.

Certificates to remain in force.

15. Notwithstanding the avoidance of the said memorandum and articles of association all certificates (until cancelled under the powers of this Act) sales transfers and dispositions heretofore made or executed under them for and with respect to any shares in the Limited Company shall remain in full force and continue and be available in all respects as if they had not been avoided.

Books &c. continued evidence.

16. All documents books and writings which if the said dissolution and avoidance had not taken place would have been receivable in evidence shall be admitted as evidence in all courts of law and equity and elsewhere notwithstanding such dissolution and avoidance.

Officers to continue until removed.

17. All officers and servants of the Limited Company who were in office immediately before the passing of this Act shall hold and enjoy their respective offices and employments together with the salaries and emoluments thereunto annexed until they shall resign the same or be removed therefrom by the Company and shall be subject and liable to the like conditions obligations pains and penalties and to the like powers of removal and to the like rules restrictions and regulations in all respects whatsoever as if they had been appointed under this Act.

Present register of members to be continued.

18. The books kept by the Limited Company for entering the names and designations of the members thereof with the numbers of their shares and the proper distinguishing number of such shares shall and may continue to be kept for the same purpose by the Company and shall until some other register of shareholders shall be provided by the Company be taken and considered as the register of shareholders required to be kept by the Companies Clauses Consolidation Act 1845.

Defining capital of the Company.

19. The capital of the Company shall be twenty-four thousand two hundred and fifty pounds which shall be classified as follows :—

(*a.*) Five thousand seven hundred and fifty pounds capital stock herein-after called A stock representing five thousand pounds the original fully paid up capital of the Limited Company and seven hundred and fifty pounds being one half the sum of fifteen hundred pounds expended by the Limited Company on works out of profits applicable to dividend.

(*b.*) Eighteen thousand five hundred pounds in this Act referred to as additional capital and which shall be divided into eighteen hundred and fifty shares to be called B shares. A.D. 1882.

Vesting of old shares in present shareholders.

20. A stock shall be appropriated to and vested in the several persons and corporations who immediately before the passing of this Act were the registered members of the Limited Company in the proportion of eleven pounds ten shillings stock for each ten pound share in the Limited Company and in substitution therefor and every portion of such stock so vested shall be subject and liable to the same trusts powers provisions declarations agreements charges liens and incumbrances as immediately before the passing of this Act affected the shares for which such stock is substituted and so as to give effect to and not revoke any testamentary disposition of or affecting the same and every testamentary disposition affecting such share capital shall be held to apply to the whole or a proportionate amount as the case may be of the stock so substituted therefor.

Company shall call in and cancel existing share certificates and issue new certificates in lieu thereof.

21. The Company shall call in and cancel the existing certificates of shares in the Limited Company and issue in lieu thereof certificates in the form and under the conditions prescribed by the Companies Clauses Consolidation Act 1845 but the holders of such existing certificates of shares shall not be entitled to any certificates of proprietorship under this Act until they shall have delivered up to the Company to be cancelled the certificates of proprietorship issued to them before the passing of this Act or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

Power to raise additional capital.

22. The Company may subject to Part II. of the Companies Clauses Act 1863 from time to time raise any additional capital to be represented by the B shares herein-before mentioned not exceeding in the whole eighteen thousand five hundred pounds by the issue at their option of new ordinary shares or new preference shares or wholly or partially by either of these modes.

As to amount of new shares.

23. Any new shares whether ordinary or preference issued under this Act shall be of a nominal amount not less than ten pounds.

Shares not to be issued until one-fifth part thereof shall have been paid up.

24. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share is paid in respect thereof.

Calls.

25. One fifth of the amount of a share shall be the greatest amount of a call and two months at least shall be the interval between

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successive calls and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipts on behalf of incapacitated persons.

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

Restriction as to votes in respect of preferential shares.

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

Limiting profits of Company.

28. The Company shall not in any one year pay out of their profits any larger dividends on the A stock than ten pounds in respect of every one hundred pounds nor on the B shares than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital or six pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as preference capital.

Dividends on classes of shares to abate proportionately.

29. In case in any year the net revenue of the Company applicable to dividend shall not be sufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary shares in the capital of the Company a proportionate deduction shall be made in the dividends of each class.

Power to borrow in respect of original capital.

30. The Company may at any time and from time to time after the passing of this Act borrow on mortgage in respect of the A stock any sums not exceeding in the whole two thousand five hundred pounds inclusive of the mortgage debt of the Limited Company amounting to two thousand four hundred and fifty pounds.

Power to borrow in respect of additional capital.

31. In addition to the sum of two thousand five hundred pounds which the Company are authorised to borrow under the last preceding section they may from time to time borrow on mortgage in respect of the additional capital of eighteen thousand five hundred pounds by this Act authorised to be raised by B shares any sum not exceeding in the whole four thousand six hundred and twenty-five pounds and the Company may as each sum of four thousand six hundred and twenty-five pounds of the additional capital has been issued and accepted and one half thereof has been paid up borrow on mortgage any sums not exceeding in the whole one thousand one hundred and fifty-six pounds but no part thereof shall be borrowed until the whole of the additional capital in respect of which the borrowing power is exercised is issued and accepted and one half thereof is 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 the whole of such capital has

been issued and accepted and that one half thereof has been paid up and that not less than one-fifth part of the amount of each separate share in such capital 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 or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations 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 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 any part thereof by the creation of shares or stock instead of borrowing or to convert into capital the amount borrowed under the provisions of this Act unless in either case all dividends upon the shares or stock whether ordinary or preferential are limited to a rate not exceeding five pounds per centum per annum.

Existing mortgages to have priority.

33. All mortgages granted by the Limited Company before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the conditions under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act.

For appointment of a receiver.

34. 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 three hundred 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 but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this 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 resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages.

Moneys borrowed on mortgage or

36. All moneys raised or to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall

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debenture stock to have priority.

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 rent-charge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act 1845 or the Lands Clauses Consolidation Acts Amendment Act 1860 or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purpose of their undertaking or works or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

Application of moneys.

37. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only for the purposes of this Act to which capital is properly applicable.

First and subsequent meetings.

38. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act and the subsequent ordinary meetings of the Company shall be held once in every year in the month of September or at such other time as the directors may appoint.

Votes.

39. At all meetings of the Company every shareholder shall be entitled to one vote in respect of every sum of ten pounds fully paid up whether in stock or shares.

Number of directors.

40. Subject to the provisions herein-after contained for reducing the number of directors the number of the directors shall be five: Provided that the Company may from time to time reduce the number of directors but so that the number be never less than three.

Qualification of directors.

41. The qualification of a director shall be the possession in his own right of not less than twenty shares.

Quorum of directors.

42. The quorum of a meeting of directors if the number of directors for the time being be five shall be three and if the number of directors for the time being be three the quorum shall be two.

First directors.

43. Bernard Jonas Alcock Edward Thomas Bricknell Michael Currey Charles Garfit and Nicholas George Seymour shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either

continue in office the directors appointed by this Act or any of them or may elect a new body of directors or directors to supply the places of those not continued in office the directors appointed by this Act being if qualified eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

44. It shall not be necessary for the auditors appointed by the Company to hold shares in the capital of the Company.

Auditors need not hold shares.

45. Subject to the provisions of this Act the Company may from time to time enter upon take and use such of the lands and streams delineated on the deposited plans and described in the deposited books of reference as may be required for the purposes of this Act.

Power to take lands.

46. Subject to the provisions of this Act the Company may hold use maintain continue alter improve enlarge and extend the waterworks and all other works and conveniences connected therewith and may supply and sell water within the limits of this Act but this enactment shall not empower the Company to enlarge or extend the reservoir by this Act authorised and any other reservoir of the Company.

Power to maintain existing waterworks.

47. Subject to the provisions of this Act the Company may from time to time do the following acts and things:

Power to make new waterworks.

They may make and maintain in the lines or situations and according to the levels shown on the deposited plans and sections the works shown thereon including the following works wholly situated in the parish of Templerobin in the county of Cork (that is to say):

I. A reservoir to be situate in the townlands of Ballywilliam on the south side of the road leading from near Ballynoe Cottages to Cuskinny known as the "Tea Road."

II. An aqueduct conduit or line of pipes commencing in the Ballyleary Stream and terminating in the reservoir firstly herein described.

III. An aqueduct conduit or line of pipes commencing from and out of the reservoir firstly herein described and terminating in the existing pipe of the Limited Company in the townland of Ballywilliam in the parish of Templerobin.

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They may make erect lay down provide maintain alter improve enlarge extend and renew or discontinue all wells pumping engines tanks cuts adits channels aqueducts conduits pipes machinery apparatus buildings works and conveniences as they may deem expedient for collecting impounding storing and distributing water and they may collect and impound by and in their works and thence distribute all or any wells springs streams and waters delineated on the deposited plans and described in the deposited books of reference which can or may be intercepted or taken by the waterworks or may be required by the Company for the purpose of water supply.

Company may only take water from Small's Well between certain hours.

48. Notwithstanding anything in this Act contained the well known as Small's Well shall be and shall remain vested in and shall be under the control of the commissioners and may be used for public sanitary purposes and for the gratuitous supply and distribution of water to any inhabitants who choose to carry such water away not for sale but for their own private use but the Company may take and they are hereby authorised and empowered to take and use for the purposes of their waterworks and undertaking the waters which may be derived or taken from the said well between the hours of eight o'clock in the evening and six o'clock in the morning of any day.

Lateral and vertical deviation.

49. In making the works by this Act authorised the Company may deviate laterally from the lines thereof shown or described on the deposited plans to any extent within the limits of deviation shown thereon and may deviate vertically from the levels thereof shown on the deposited sections to any extent not exceeding in the case of a reservoir three feet upwards and five feet downwards and in the case of other works five feet upwards or downwards. Provided always that the heights of the embankment of the reservoir above the general surface of the ground as shown on the deposited sections shall not be increased by reason of any such lateral deviation as aforesaid: Provided also that the Company may erect any water tower stand pipe or other like work of any height which for the time being may be necessary or proper for the purposes of this Act.

Period for compulsory purchase of lands.

50. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years after the passing of this Act.

Power to acquire additional lands by agreement.

51. 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 from time to time by agreement purchase in fee either absolutely or in consideration of any yearly or other rent

any additional quantity of land not exceeding in the whole ten acres or any easement or right (not being an easement or right of water) in or over such additional lands which they may from time to time think requisite for any of the purposes of the undertaking: Provided that the Company 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 waterworks.

Period for completion of works.

52. If the waterworks authorised by this Act and shown on the deposited plans are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for executing the same or in relation thereto shall cease to be exercised except as to so much thereof as is then completed but nothing herein shall restrict the Company from extending enlarging deepening increasing the number of altering or removing any of their engines machinery wells adits mains pipes or other works from time to time as the Company shall think fit for supplying water within the limits or under the powers of this Act.

Power to take easements &c. by agreement.

53. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any lease or leases of any lands or any easements rights or privileges in over or affecting any lands (not being an easement right or privilege of water) and the provisions of the last-mentioned Acts with respects to lands and rentcharges as far as the same are applicable in this behalf shall extend and apply to such grants or to such easements rights or privileges as aforesaid respectively.

Reservation of water rights &c. on sale.

54. On the sale by the Company of any lands they may reserve to themselves all or any part of the water or water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may make any such sale subject to such other reservations special conditions restrictions and provisions for the protection of the waterworks and water supply of the Company as they think fit.

Saving rights of Her Majesty's Principal Secretary of State for the War Department.

55. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty or vested in Her Majesty's Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction: Be it therefore enacted that nothing in this Act contained shall authorise the Company to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being or to

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take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand and which consent the said Principal Secretary for the time being is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the said Company.

Company not to interfere with Cork Harbour without consent of Cork Harbour Commissioners.

56. Nothing in this Act shall be construed to authorise the Company to interfere with Cork Harbour or the bed or waterway thereof or to execute any work in through or under any wharves quays landing places docks harbours jetties or basins made by the Cork Harbour Commissioners or their property or under their jurisdiction or conservancy without the previous consent of the Cork Harbour Commissioners in writing under their common seal.

Provision as to alteration of mains &c. by the Cork Harbour Commissioners.

57. The Cork Harbour Commissioners may at their own expense and on substituting other mains or pipes equally effectual take up or divert or alter the level of any mains or pipes constructed by or belonging to the Company and passing under or interfering with Cork Harbour or with the quays boat harbours or landing places thereof whether above or below low water mark and may do all such things as may be necessary for carrying into effect such taking up diversion or alteration.

Pressure, &c.

58. Water supplied under this Act need not be constantly laid on under pressure until the works hereby authorised are completed nor supplied in any case at a pressure greater than that to be afforded by gravitation from the reservoir from which the supply is taken.

Rate at which water is to be supplied for domestic purposes.

59. The Company shall at the request of any owner or any occupier of a dwelling-house in any street in which any pipe of the Company shall be laid or on the application of any person who under the provisions of this Act shall be entitled to demand a supply of water for domestic purposes furnish such owner or occupier or other person a sufficient supply of water for domestic purposes at a rate not exceeding six pounds per centum per annum on the annual value of such dwelling-house or part of a dwelling-house. For the purposes of this section the annual value shall be taken to be the annual rackrent which the tenant or occupier may pay for the premises or in case there be only a ground rent or no rent payable by him then the annual value of the premises shall be taken to be the annual rackrent which a tenant might be expected taking one year with another to pay for the premises if the tenant undertook to pay all usual tenants rates and taxes and if the landlord undertook to bear the cost of the repairs and insurance and the other expenses if any necessary to maintain the premises in a state

to command that rent. Provided that the Company shall not be compellable to afford a supply of water for domestic purposes to the owner or occupier of any dwelling-house or part of a dwelling-house at a less price than twopence per week nor shall they be compellable to afford a supply to any such owner or occupier unless he shall agree to take such supply for a period not less than twelve months. Provided always that for twelve months after the passing of this Act no greater rate shall be charged for water than was charged immediately before the passing of this Act.

Defining exceptions to supply of water for domestic purposes.

60. A supply of water for domestic purposes shall not in the construction of this Act include a supply of water for common lodging-houses waterclosets (beyond one) or baths (public or private) or for cattle or for horses or for washing carriages or for steam-engines or for mills or for railway steamer or shipping purposes or for working any machine or apparatus or any trade manufacture or business whatsoever or for watering gardens by means of any tap tube pipe hose or other such apparatus or for fountains or for flushing sewers or drains or for any ornamental purpose whatsoever.

Rates for waterclosets and baths.

61. In addition to the rates for the supply of water for domestic purposes the Company may demand and receive for every water-closet any yearly sums not exceeding seven shillings and sixpence for the second and five shillings for every additional one beyond the second and for every private fixed bath in any house any yearly sum not exceeding ten shillings and so in proportion for any such bath capable of containing when filled more than fifty gallons.

For preventing the fouling of water.

62. The Company shall not be compelled to supply with water any watercloset or any bath or the apparatus or pipes connected therewith respectively unless the same be so constructed and used as to prevent the waste undue consumption or contamination of the water of the Company.

Power to Company to supply water for other than domestic purposes and by measure.

63. Subject to the provisions of this Act the Company may supply water for other than domestic purposes on such terms and conditions as the Company think fit so long as the affording such supply shall not prevent the Company from giving a full and efficient supply for domestic purposes within the limits of this Act and may enter into agreements for the supply of water by measure either for domestic or other purposes.

Regulations for preventing waste of water.

64. The Company may from time to time (so soon as they shall be under an obligation to afford a constant supply but not sooner) make regulations for the purpose of preventing the waste or misuse or contamination of water and amongst other things may prescribe (with or without reference to models patterns

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or samples) the size nature materials workmanship and strength of the pipes cocks ferrules valves soil-pans waterclosets baths cisterns and other apparatus or receptacles whatsoever to be used and may forbid any arrangements and the use of the several things before mentioned or any or either of them which may lead to such waste or misuse or contamination.

Confirmation of regulations.

65. No such regulation shall be of any force or effect unless and until the same shall have been submitted to and confirmed by the Local Government Board which board is hereby empowered to confirm the same. And no such regulation shall be confirmed unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulating within the district to which such regulations relate and until the expiration of ten days after notice in writing of the intention to submit the same for confirmation together with a copy of the proposed regulation shall have been given by or on behalf of the Company to the local authorities within the limits of supply any of whom may within the said period of ten days make such representation with reference thereto to the Local Government Board as such authorities shall think expedient: Provided also that no such regulations shall be of any effect in any part of the Company's district in which they are not under an obligation to afford a constant supply.

Publication of regulations.

66. All such regulations in force for the time being shall be published by a copy thereof being kept at the office of the Company. All persons may at all reasonable times inspect such copy without payment and the Company shall cause to be delivered a printed copy of all regulations for the time being in force to every person applying for the same on payment of a sum not exceeding sixpence for each copy.

Evidence of regulations.

67. A printed copy of any such regulations as aforesaid dated and purporting to be made as aforesaid and to have been confirmed by the Local Government Board shall be evidence until the contrary is proved in all legal proceedings of the due making confirmation publication and existence of such regulations without further or other proof.

For enforcing regulations.

68. In the event of any such regulations not being complied with by any person being or about to become a customer of the Company they may refuse to supply water or (as the case may be) may cut off the water supplied by them to him (notwithstanding any contract or otherwise) until the regulations are complied with: Provided that in cases of accident emergency or necessary repairs the Company shall not under this provision cut off the water supplied

to any customer of the Company until after he has had twenty-four hours notice in writing from the secretary or other officer of the Company of the intention of the Company to cut off the same. A.D. 1882.

Disputes to be determined by justices.

69. In the event of any dispute between the Company and any customer or intending customer as to the fact or extent of any alleged non-compliance with any such regulations such dispute shall be referred to the determination of two justices whose decision thereon and the amount of costs (if any) of or incident to such dispute and the determination thereof and by whom such costs are to be paid shall be final and conclusive.

Company may repair pipes at expense of customer.

70. Where any person supplied with water by the Company after twenty-four hours notice in writing under the hand of the secretary or other officer of the Company to alter or repair any pipe valve cock cistern or other apparatus in order that the water supplied to him by the Company shall not be wasted fails to alter or repair the same so as to prevent such waste the Company may alter or repair the same and their expenses in so doing shall be repaid to them by the person so failing as aforesaid and the Company may recover the same as damages and in addition to the penalty (if any) recovered for the offence.

Company's officers may enter buildings.

71. The Company's agent or other officer duly appointed for the purpose by the Company may between the hours of nine in the forenoon and four in the afternoon enter any building or place supplied with water by the Company in order to inspect the meters pipes fittings cisterns and apparatus for regulating the supply of water and to see whether such meters pipes fittings cisterns or other apparatus be in good repair and if such agent or other officer at any such time be refused admittance into such premises for the purposes aforesaid or be prevented from making such examination the occupier of such premises shall for every such offence forfeit to the Company a sum not exceeding five pounds.

Company not bound to supply water in certain cases.

72. The Company shall not be compelled to supply any dwelling-house with water (otherwise than by agreement) where any part of such dwelling-house is used for any trade or manufacturing purpose or any business of that nature for which water is required.

Company may take deposit.

73. In the case of all agreements on contracts for the supply of water by the Company for other than domestic purposes the Company may demand and receive payment in advance by way of deposit Provided always that the Company shall deduct the amount of such deposit from the amount payable under any such agreement or contract by the person who made such deposit as aforesaid.

Times for payment of water rates.

74. The rates for a supply of water for domestic purposes shall be payable in advance by equal quarterly payments on the thirtieth

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day of March thirtieth day of June thirtieth day of September and the thirtieth day of December respectively in each year.

Provision as to supply of part of premises.

75. The Company shall not be compelled to supply water to the occupier of any part of a dwelling-house or for any premises occupied with a dwelling-house unless the water rate rent or charge is paid for the whole of such dwelling-house and premises.

Supply of water to tenements in a row.

76. Where there are several tenements in a row no tenant or occupier of any one of the tenements nor any person on his behalf shall take or use the water laid on by the Company to any other such tenement unless the tenant or occupier be in respect of the tenement so occupied by him rated under this Act for a supply of water and every person so taking or using water or allowing the same to be used contrary to the provisions of this Act shall for every such offence forfeit and pay to the Company any sum not exceeding five pounds.

Register of meter to be primâ facie evidence.

77. Where water is supplied by measure the register of the meter shall be primâ facie evidence of the quantity of water consumed.

Fraudulently injuring meters &c.

78. If any person wilfully fraudulently or by culpable negligence injuries or suffers to be injured any pipe meter or fitting belonging to the Company or fraudulently alters the index to any meter or fraudulently prevents any such meter or the index thereof from duly registering the quantity of water supplied he shall (without prejudice to any other right or remedy for the protection of the Company or the punishment of the offender) for every such offence be liable to a penalty not exceeding ten pounds and the Company may in addition thereto recover the amount of any damages sustained by them and the Company may also discontinue the supply of water to the person so offending until the injury is remedied and the amount of the damage is paid notwithstanding any contract then existing and the existence of artificial means for causing such alteration or prevention when such pipe meter or fitting is under the custody or control of the consumer shall be primâ facie evidence that such alteration or prevention has been fraudulently caused by the consumer using such meter.

Entry on premises to cut off supply.

79. In all cases in which the Company are authorised to cut off the pipe or stop or discontinue the supply of water to any premises the Company their agents and workmen may for that purpose and after giving notice as herein-after provided enter into any premises through which such pipe or supply passes between the hours of nine in the forenoon and four in the afternoon.

Notice before entry.

80. The notice to be given by the Company previously to making an entry authorised by this Act shall be in writing under

the hand of the secretary or other officer of the Company and shall be given or served in manner following (that is to say):

If such premises be occupied then by leaving the notice thereat or by delivering the same to the occupier thereof twenty-four hours at least previously to such entry;

If such premises be unoccupied and the owner thereof and his usual place of abode be in Ireland and be known to the Company then by delivering the notice to such owner or by leaving the same at his usual place of abode twenty-fours or by sending the same by post in a registered letter addressed to him at his usual place of abode forty-eight hours at least previously to such entry;

If such premises be unoccupied and the owner thereof or his usual place of abode be not in Ireland or be not known to the Company after due inquiry then by affixing the notice on some conspicuous part of such premises previously to such entry;

And for the purposes of this section any person receiving the rack-rents of any such premises either on his own account or as agent for any other person shall be deemed the owner of such premises.

Incoming tenant not liable for arrears.

81. The Company shall not be entitled to require from the incoming tenant of any property the payment of arrears of water rent or meter rent left unpaid by any former tenant unless the incoming tenant has undertaken with such former tenant to pay or exonerate him from the payment of such arrears.

Recovery of sums due.

82. If any person fails to pay any water rent meter rent rate damages costs expenses or other sum due to or recoverable by the Company under this Act they may recover the same by proceedings in any court of competent jurisdiction or if the amount thereof is not bonâ fide disputed the same may be levied by distress (the person in default being first duly summoned) and any justice may issue his warrant accordingly and the remedies of the Company under this section shall be in addition to their other remedies for recovery of any such rent rate damages costs expenses or other sum.

Notice of discontinuance.

83. A notice to 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 for the time being of the Company.

Contracts for supplying water for public purposes.

84. The Company may from time to time enter into and carry into effect agreements with any local board sanitary authority company public body officers or persons for the supply by the Company within the limits of this Act of water to or for the local board

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sanitary authorities companies public bodies officers or persons respectively whether in bulk or otherwise and for what purposes soever 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.

Liability to water rent not to disqualify justices &c.

85. No justice or judge of any court shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any water rent meter rent charge or rate under this Act.

Contents of summons &c.

86. Any summons or warrant issued for any of the purposes of this Act may contain in the body thereof or in a schedule thereto several names and several sums.

Costs of distress.

87. Any justice who issues a warrant of distress for any of the purposes of this Act may order that the costs of the proceedings for the recovery of the money to be levied be paid by the person liable to pay such money and in that case such costs shall be ascertained by the justice and shall be included in the warrant of distress.

Penalties not cumulative.

88. Penalties imposed for one and the same offence by several Acts of Parliament shall not be cumulative and for this purpose this Act and any Act incorporated wholly or in part with this Act shall be deemed several Acts.

Company to sell undertaking on requisition of town commissioners of Queenstown.

89. If the commissioners shall at any time within one year after the passing of this Act by writing under the hand of their clerk addressed to the secretary or clerk of the Company at his office require the Company to sell the undertaking to the commissioners the Company shall thereupon sell and the commissioners shall purchase the undertaking and if for a period of three months after making of such requisition the commissioners and the Company fail to agree as to the price terms and conditions of such sale and purchase then and in such event such price terms and conditions shall at the instance and on the request of either party be settled by arbitration according to the provisions of the Companies Clauses Consolidation Act 1845 with respect to the settlement of disputes by arbitration: Provided that the price to be paid to the Company by the commissioners shall not be assessed by the arbitrators or umpire at a higher sum than ten thousand five hundred pounds such sum to include the costs of promoting the Bill for this Act in the House of Lords in which House the Bill originated.

Providing for completion of sale

90. On the payment of the purchase money agreed on or awarded to the Company by the commissioners as the case may be the

Company shall give to the commissioners a deed under their seal which being duly stamped on the ad valorem scale applicable to the amount of the consideration and having a receipt for the consideration under the hands of three directors endorsed thereon shall operate to and shall by virtue of this Act transfer to the commissioners all powers rights privileges authorities property estates and privileges of the Company and the same shall be exercised and held by the commissioners and subject to their powers and obligations under the Public Health (Ireland) Act 1878 and thereupon this Act shall be read and have effect as if the commissioners had been named herein instead of the Company subject nevertheless to all the provisions conditions and restrictions contained in this Act (and which in the event of such purchase shall be deemed to be in addition to any powers conferred on the commissioners by the operation of any Act of Parliament affecting them) and subject and according to the following exceptions and provisions :

&c. to town commissioners.

(1.) The provisions of the Companies Clauses Consolidation Act 1845 and of the Companies Clauses Act 1863 incorporated with this Act shall not apply to the commissioners.

(2.) None of the provisions of this Act in any manner relating to the constitution management capital profits or meetings of the Company shall apply to the commissioners.

91. Such deed and receipt as aforesaid shall effectually discharge the commissioners from the sum which shall be thereby acknowledged to have been received and from being concerned to see to the application thereof and from being answerable or accountable for the loss misapplication or non-application thereof.

Receipt of Company to be effectual discharge for purchase money.

92. The purchase money to be paid by the commissioners shall be paid by them into such bank as the directors for the time being of the Company shall appoint and to the account of the Company and shall be applied by the directors in the manner following :

Division of purchase money.

Firstly—In discharging in accordance with their several priorities all moneys due and owing by the Company on mortgage bond or other charge on the undertaking of the Company.

Secondly—In discharging all outstanding debts and liabilities of the Company which shall not have been so secured.

Thirdly—In making a fair rateable division of the residue thereof amongst the holders of the shares or stock of the Company in proportion to their respective interests in the undertaking of the Company and according to their respective legal rights and priorities.

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Providing for dissolution of the Company.

93. When and so soon as the purchase money shall have been appropriated and divided in manner herein-before directed the Company shall be by virtue of this Act dissolved.

If purchase not completed &c. Company discharged from liability to sell.

94. If from any cause whatsoever the purchase money be not paid by the commissioners to the Company according to the tenor of the agreement or award as the case may be and within a time which shall be limited therein the liability of the Company to sell their undertaking to the commissioners shall altogether cease and thereafter the Company shall carry on the same for their benefit discharged from any such liability but without prejudice to the right of the Company which in that case is hereby conferred upon them to recover from the commissioners any damages costs and expenses they may have sustained or been put to by the proceedings of the commissioners in this respect.

Payment into court by Company.

95. If at the expiration of twelve months from the date of the purchase any moneys which ought to be paid to the shareholders of the Company shall remain in the hands of the directors thereof either by reason of the absence from Great Britain or Ireland or incapacity of any shareholder or of his executors administrators or assigns or on account of his residence or place of abode not having been ascertained by the Company after reasonable inquiry or on account of the Company being in doubt as to the true legal ownership of any shares or of any money distributable under this Act or as to the sufficiency of any acquittance or discharge proposed to be given to them in respect thereof or on account of any other reasonable cause the directors may pay the same into the Chancery Division of the High Court of Justice in Ireland under any Act for the time being in force for the relief of trustees previously deducting therefrom the costs of and incidental to such payment into court such costs to be ascertained by one of the taxing-masters of the said court.

Costs of Act.

96. All costs charges and expenses of and incident to the applying for preparing obtaining and passing of this Act and otherwise in relation thereto shall be paid by the Company out of the first moneys coming into their hands under this Act.

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