CHAPTER cxiv.

An Act for conferring further powers on the Southend Waterworks Company for the construction of works the raising of money and otherwise in relation to their undertaking and for other purposes. [25th July 1898.] A.D. 1898.

WHEREAS the Southend Waterworks Company (in this Act called "the Company") are incorporated and empowered by the Southend Waterworks Acts 1879 and 1894 which Acts are in this Act referred to collectively as the former Acts and each of them separately as an Act of the year in which the same was passed and in exercise of the powers conferred upon them by those Acts they have constructed waterworks and are now supplying water in the borough of Southend-on-Sea and elsewhere within their limits of supply in the county of Essex:

And whereas the Company have made and completed the works authorised by the Act of 1879 and some of the works authorised by the Act of 1894 and are proceeding with the making and execution of other works authorised by that Act:

And whereas it is expedient to empower the Company to make and maintain the works herein-after described and by this Act authorised:

And whereas it is expedient that the Company be authorised to raise further moneys for the purposes of this Act and for the general purposes of their undertaking and that such further provisions be made with respect to the Company and their undertaking as are in this Act contained:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also books 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 county of Essex

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and are herein-after respectively referred to as the deposited plans sections and books 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 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 and mode of citing Acts of Company.

1. This Act may be cited as the Southend Waterworks Act 1898 and the former Acts and this Act may be cited together as the Southend Waterworks Acts 1879 to 1898.

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 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 the shares into stock ;

The making of dividends ;

The giving of notices ;

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.

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 And the expression "the waterworks" means and includes the waterworks and the works connected therewith by this Act authorised.

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 books of reference as may be required for those purposes · The works herein-before referred to and by this Act authorised to be made and maintained comprise the following principal works wholly situate in the county of Essex (that is to say):—

(1) A pumping station (No. 1.) with a well borings and other works and conveniences connected therewith to be wholly situate in the parish of Fobbing;

(2) An adit or heading (No. 1) to be wholly situate in the said parish of Fobbing;

(3) An adit or heading (No. 2) to be wholly situate in the said parish of Fobbing;

(4) An adit or heading (No. 3) to be wholly situate in the said parish of Fobbing;

(5) A line or lines of pipes (No. 1) commencing at or in the pumping station (No. 1) and terminating in the parish of Thundersley by a junction with the line or lines of pipes (No. 1) authorised by the Act of 1894 at or near the pumping station of the Company now in course of construction;

(6) A pumping station (No. 2) with a well borings and other works and conveniences connected therewith to be wholly situate in the parish of Vange;

(7) An adit or heading (No. 4) to be wholly situate in the said parishes of Vange and Fobbing;

(8) An adit or heading (No. 5) to be wholly situate in the said parish of Vange;

(9) An adit or heading (No. 6) to be wholly situate in the said parish of Vange;

(10) A line or lines of pipes (No. 2) to be wholly situate in the said parishes of Vange and Fobbing or one of them commencing at or in the pumping station (No. 2) and terminating by a junction with the line or lines of pipes (No. 1) in the public road leading from the village of Fobbing to the village of Vange;

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(11) A pumping station (No. 3) with a well borings and other works and conveniences connected therewith to be wholly situate in the said parish of Vange;

(12) An adit or heading (No. 7) to be wholly situate in the said parish of Vange;

(13) An adit or heading (No. 8) to be wholly situate in the said parish of Vange;

(14) An adit or heading (No. 9) to be wholly situate in the said parish of Vange;

(15) A line or lines of pipes (No. 3) to be wholly situate in the said parish of Vange commencing at or in the pumping station (No. 3) and terminating by a junction with the line or lines of pipes (No. 1) in the road leading from the village of Vange to the village of Pitsea;

(16) A pumping station (No. 4) with a well borings and other works and conveniences connected therewith to be wholly situate in the parish of Bowers Gifford;

(17) An adit or heading (No. 10) to be wholly situate in the said parish of Bowers Gifford;

(18) An adit or heading (No. 11) to be wholly situate in the said parish of Bowers Gifford;

(19) An adit or heading (No. 12) to be wholly situate in the said parish of Bowers Gifford;

(20) A line or lines of pipes (No. 4) to be wholly situate in the said parish of Bowers Gifford commencing at or in the pumping station (No. 4) and terminating by a junction with the line or lines of pipes (No. 1) in the road leading from the village of Bowers Gifford to the village of Hadleigh;

(21) A service tank (No. 1) to be wholly situate in the said parish of Thundersley;

(22) A service tank (No. 2) to be wholly situate in the parish of Hadleigh;

(23) A conduit or drain to be wholly situate in the said parish of Hadleigh:

Together with all such engines tanks wells channels cuts adits headings drifts aqueducts culverts tunnels bores drains sluices overflows waste water channels weirs stand-pipes water towers banks roads approaches communications buildings conduits pipes machinery appliances telegraphs telephones and other works and conveniences as may be necessary or convenient in connexion with or incident to the before-mentioned works or any of them or for the obtaining raising taking distributing and supplying water Provided that any telegraphs or telephones constructed and maintained under the authority of this Act shall not be used in contravention

of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Agreements with Postmaster-General.

5. The Company may undertake to pay to the Postmaster-General any loss he may sustain by reason of the establishment or maintenance at their request of any post or telegraph office or of any additional facilities (postal or other) in any rural district in connexion with the works authorised by this Act and any expenses incurred by the Company under such undertaking may be defrayed out of any revenue or funds of the Company.

For protection of London Tilbury and Southend Railway Company.

6. All works to be constructed by the Company in the exercise of any powers conferred by this Act in any way affecting the railways of the London Tilbury and Southend Railway Company (in this section referred to as "the Tilbury Company") or any of the bridges or works thereof or any lands or property belonging to the Tilbury Company shall be constructed under the superintendence and to the reasonable satisfaction of the principal engineer for the time being of the Tilbury Company and according to plans to be reasonably approved by him but in all things at the expense of the Company and so as to cause no injury to such railways bridges works lands or property or interruption to the passage or conduct of traffic over such railways and if in consequence of the construction of such works any injury be caused to such railways bridges works lands or property or any interruption be caused to such traffic the Company shall make full compensation to the Tilbury Company in respect of such injury or interruption the amount of such compensation failing agreement to be settled by arbitration in the manner provided for settling cases of disputed compensation by the Lands Clauses Consolidation Act 1845 with respect to the purchase and taking of lands otherwise than by agreement.

Nothing in this Act shall authorise the Company to interfere with any part of the railways of the Tilbury Company or to lay any pipes along over or across the same other than the pipes across the railway shown on the deposited plans in the parishes of Fobbing Vange and Pitsea In case of any difference between the Company and the Tilbury Company as to any of the matters referred to in this section (other than the question of compensation) the same shall be determined by a single arbitrator to be appointed in manner provided by the Arbitration Act 1889.

Deviation.

7. In constructing the works by this Act authorised the Company may deviate from the lines thereof shown on the deposited plans to any extent not exceeding the limits of deviation shown or described on the said plans and may deviate from the levels shown on the deposited sections to any extent not exceeding in any one place as

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regards the waterworks other than wells or borings and adits or headings ten feet and as regards wells or borings and adits or headings twenty feet upwards and any extent downwards 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 in that case to a greater height than is so shown.

Works to form part of undertaking of Company.

8. 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.

Power to take underground waters.

9. The Company may take raise collect divert impound distribute and use all or any of the underground springs streams and waters which can or may be taken or collected by means of the works by this Act authorised or as may be found in or under any lands for the time being belonging to the Company or in on under or over which they may acquire any easement or interest for that purpose.

Period for compulsory purchase of lands.

10. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of five years from the passing of this Act.

Power to acquire easements only for adits and lines of pipes.

11.—(1.) The Company may in lieu of acquiring any lands for the purpose of any of the adits or headings or any of the lines of pipes by this Act authorised acquire such easements and rights in such lands as they may require for the purpose of making maintaining cleansing repairing renewing and enlarging such adits or headings or lines of pipes and may give notice to treat in respect of such easements and rights and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such easements and rights as fully as if the same were lands within the meaning of those Acts.

(2.) Provided that as regards any lands taken or used by the Company for the purpose of such adits or headings or lines of pipes where they are respectively laid underground the Company shall not (unless they give notice to treat for such lands and not merely for easements therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been taken or used by the Company.

Provided also that nothing herein contained shall authorise the Company to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Company to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement shall be endorsed with notice of this provision.

Power to acquire additional lands by agreement.

12. 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 or for the purposes of their undertaking purchase by agreement any additional quantity of land not exceeding in the whole one hundred acres or any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) in or over such additional lands which they may 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.

Persons under disability may grant easements &c.

13. 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 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.

Restriction on taking houses of labouring class.

14.—(1.) The Company shall not under the powers of this Act purchase or acquire in any city borough or other 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.) For the purposes of this section the expression "labouring class" means 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

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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.

15. If the works authorised by this Act and shown on the deposited plans are not completed within fifteen 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 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 renewing any of their engines machinery wells adits headings or borings mains pipes or other works as the Company think fit.

Temporary discharge of water into streams.

16.—(1.) For the purpose of constructing repairing cleansing emptying or examining any wells or other works by this Act authorised or any other existing or authorised wells or works of the Company the Company may cause the water in any such wells or works to be temporarily discharged into any available stream or watercourse.

(2.) In the exercise of the power conferred by this section the Company shall do as little damage as may be and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration under and pursuant to the provisions of the Arbitration Act 1889.

Provisions as to supply of water to Billericay Rural District Council.

17. From and after the time when the Company shall obtain water from any pumping station to be constructed by them under the authority of this Act in the parishes of Bowers Gifford and Vange or either of them the Company shall at the request of the Billericay Rural District Council (in this section referred to as "the Billericay Council") and unless prevented by frost unusual drought or other unavoidable cause or accident provide the Billericay Council with a supply of water in bulk sufficient for the use of all the inhabitants of the parishes of Bowers Gifford Pitsea and Vange such supply being calculated on a basis of not less than four gallons nor more than eighteen gallons per head per diem of the estimated population of those parishes during the months of April to September inclusive in every year and not less than four gallons nor more than fifteen gallons per head per diem of the said estimated population during the succeeding months of October to March inclusive but the supply per head per diem required during the months of April to September inclusive in any year shall not exceed the quantity required during the succeeding

months of October to March by more than twenty per centum Such water shall be supplied from any principal main of the Company at such points not exceeding three in number within the said parishes as the Billericay Council shall require through high-pressure meters to be provided and fixed by the Company.

The quantity of water calculated on the basis aforesaid required by the Billericay Council during the periods before mentioned shall be certified by the Billericay Council to the Company prior to the first day of January in every year and the quantity of water so required shall be delivered and taken in equal quantities as nearly as may be during the twenty-four hours of each day in such periods calculated from noon to noon.

The Billericay Council shall pay to the Company for the water so required as aforesaid and whether the same shall be actually taken or not at the rate of one shilling and sixpence per thousand gallons such payment to be made quarterly at the office of the Company within twenty-one days after each quarter day and in default of payment the supply of water by the Company may be at once discontinued Provided that any water so supplied by the Company shall not be sold or disposed of by the Billericay Council for use in any parish or place not included within their district but it may after affording a sufficient supply to the inhabitants of the parishes of Bowers Gifford Pitsea and Vange be stored or distributed by the Billericay Council within any parish included within their district and which is not at the passing of this Act included within the limits of supply of any waterworks company.

The Billericay Council shall pay the Company an annual rent of thirty shillings for each meter so supplied by them as aforesaid and the Billericay Council shall have access at all reasonable times to such meters for the purpose of ascertaining whether such meters are correctly registering the amount of water supplied and in the event of any meter being found to register incorrectly the amount of water which shall have passed through the same shall unless agreed on be determined by arbitration Provided that the meter shall be deemed correct if it registers within five per centum either fast or slow.

From the time when the Company commence to supply water to the Billericay Council under the provisions of this section the Billericay Council shall be entitled to take and shall take a supply of water from the Company in perpetuity unless and until otherwise mutually agreed between the Company and the Billericay Council.

The Company shall have all such powers in relation to the laying and maintaining of mains and pipes and with respect to

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the breaking up of streets therefor within the parishes of Bowers Gifford Pitsea and Vange as they would have had under this Act and the Waterworks Clauses Act 1847 if those parishes had been included under the provisions of this Act within the limits of supply of the Company.

Provisions as to supply of water to Orsett Rural District Council.

18. From and after the time when the Company shall obtain water from any pumping station to be constructed by them under the authority of this Act in the parish of Fobbing the Company shall at the request of the Orsett Rural District Council (in this section referred to as "the Orsett Council") and unless prevented by frost unusual drought or other unavoidable cause or accident provide the Orsett Council with a supply of water in bulk sufficient for the use of all the inhabitants of the parishes of Fobbing and Langdon Hills such supply being calculated on a basis of not less than four gallons nor more than eighteen gallons per head per diem of the estimated population of those parishes during the months of April to September inclusive in every year and not less than four gallons nor more than fifteen gallons per head per diem of the said estimated population during the succeeding months of October to March inclusive but the supply per head per diem required during the months of April to September inclusive in any year shall not exceed the quantity required during the succeeding months of October to March by more than twenty per centum Such water shall be supplied from any principal main of the Company at such point within the said parish of Fobbing as the Orsett Council shall require through a high-pressure meter to be provided and fixed by the Company.

The quantity of water calculated on the basis aforesaid required by the Orsett Council during the periods before mentioned shall be certified by the Orsett Council to the Company prior to the first day of January in every year and the quantity of water so required shall be delivered and taken in equal quantities as nearly as may be during the twenty-four hours of each day in such periods calculated from noon to noon.

The Orsett Council shall pay to the Company for the water so required as aforesaid and whether the same shall be actually taken or not at the rate of one shilling and sixpence per thousand gallons such payment to be made quarterly at the office of the Company within twenty-one days after each quarter day and in default of payment the supply of water by the Company may be at once discontinued Provided that any water so supplied by the Company shall not be sold or disposed of by the Orsett Council for use in any parish or place not included within their district but it may after affording a sufficient supply to the inhabitants of the parishes of

Fobbing and Langdon Hills be stored or distributed by the Orsett Council within any parish included within their district and which is not at the passing of this Act included within the limits of supply of any waterworks company.

The Orsett Council shall pay the Company an annual rent of thirty shillings for the meter so supplied by them as aforesaid and the Orsett Council shall have access at all reasonable times to such meter for the purpose of ascertaining whether such meter is correctly registering the amount of water supplied and in the event of such meter being found to register incorrectly the amount of water which shall have passed through the same shall unless agreed on be determined by arbitration Provided that the meter shall be deemed correct if it registers within five per centum either fast or slow.

From the time when the Company commence to supply water to the Orsett Council under the provisions of this section the Orsett Council shall be entitled to take and shall take a supply of water from the Company in perpetuity unless and until otherwise mutually agreed between the Company and the Orsett Council.

The Company shall have all such powers in relation to the laying and maintaining of mains and pipes and with respect to the breaking up of streets therefor within the parish of Fobbing as they would have had under this Act and the Waterworks Clauses Act 1847 if that parish had been included under the provisions of this Act within the limits of supply of the Company.

Power to raise additional capital.

19. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the capital which they have already raised and which they are authorised to raise under the former Acts any capital not exceeding in the whole for the purposes of this Act and for the general purposes of their undertaking one hundred and seventy-six 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 one hundred and

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seventy-six thousand pounds Provided also that not more than one-half of such additional capital shall be raised by the creation and issue of new preference shares or stock.

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 Company on additional share capital limited.

23. The Company shall not in any one year make out of their profits any larger dividend on the additional capital to be raised under the powers of this Act than five 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 five pounds per centum per annum or than five pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

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

24. 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 manner at such times and subject to such conditions of sale as the Company shall 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.

25. 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.

26. 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 Southend-on-Sea to the clerk to the Council of any district within which a part of the limits of supply of the Company may be included 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.

27. 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 subsequent 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

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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.

28. 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 Provided that in any case where a power to raise money by borrowing or to create a reserve fund is made proportionate to the paid-up capital the premium received from the sale of shares or stock by auction or tender as herein-before provided shall for such purpose be reckoned as part of the paid-up capital.

Power to borrow in respect of additional capital.

29. The Company may in addition to the moneys which they are authorised to borrow by the former Acts 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.

Priority of principal moneys secured by existing mortgages.

30. The principal moneys secured by 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 have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Repeal of provisions of former Act with respect to appointment of receiver.

31. Section 28 (For appointment of receiver) of the Act of 1894 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.

For appointment of receiver.

32. 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 eight thousand pounds in the whole.

Power to create debenture stock.

33. 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 and of section 34 of the Act of 1879.

Debenture stock and mortgages to be sold by auction or by tender.

34. The provisions of this Act with respect to disposing of shares or stock by auction or tender and to the application of any money arising by way of premium shall mutatis mutandis apply to debenture stock issued and to any mortgages granted by the Company under this Act.

Receipt in case of persons not sui juris.

35. If any money is payable to a shareholder stockholder mortgagee or debenture stockholder 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.

36. 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.

37. 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

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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.

Costs of Act.

38. 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 be paid by the Company.

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