CHAPTER vi.

An Act to empower the Southend Waterworks Company to raise further capital and for other purposes. A.D. 1904.

[28th April 1904.]

WHEREAS by the Southend Waterworks Act 1879 the Southend Waterworks Company (in this Act called "the Company") were incorporated and were authorised to construct waterworks and to supply the borough of Southend-on-Sea and other places in that Act specified with water and further powers were conferred upon the Company by the following Acts (that is to say):—

The Southend Waterworks Act 1894;

The Southend Waterworks Act 1898:

And whereas in view of the rapidly increasing population and demand for water within the borough of Southend-on-Sea and other places within the Company's limits of supply it is expedient for the purpose of extending their mains pipes and other works and for the general purposes of their undertaking that the Company should be authorised to raise further moneys:

And whereas the object 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 King'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:—

1. This Act may be cited as the Southend Waterworks Act 1904. Short title.

2. Parts II. and III. of the Companies Clauses Act 1863 relating respectively to additional capital and to debenture stock as amended by subsequent Acts are except where expressly varied Incorporation of Parts II. and III. of Companies

Clauses Act 1863.

by or inconsistent with 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 Southend Waterworks Act 1898 and by the Acts wholly or partially incorporated therewith have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Power to raise additional capital.

4. 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 their former Acts any capital not exceeding in the whole for the general purposes of their undertaking one hundred and eighty-four 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 eighty-four thousand pounds.

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

5. 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.

6. 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.

7. 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 capital limited.

8. 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.

9. Notwithstanding anything in this Act contained the Company shall when any shares or stock created under the powers of this Act are to be issued and before offering the same to the holder of any other shares or stock in the Company and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not offer the same for sale by public auction or by tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine Provided that at any such sale no single lot shall comprise more than one hundred pounds nominal value of shares or stock and that the reserved price put upon such shares or stock shall not except as hereafter provided 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.

10. 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.

A.D. 1904.

Notice to be given as to sale of shares or stock.

11. 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 holders of ordinary shares or stock.

12. 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 may be disposed of by the directors at a price not less than the reserved price put upon the same for the purpose of sale by auction or tender or may be offered at such reserved price 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 not so disposed of or 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 except that the reserved price put upon such shares or stock may upon such second sale if the directors of the Company think fit be less than the nominal amount thereof and any shares or stock not then sold may be disposed of by the directors or offered to the holders of ordinary shares or ordinary stock at not less than 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.

13. 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 hereinbefore provided shall for such purpose be reckoned as part of the paid-up capital.

Power to borrow in respect of additional capital.

14. The Company may in addition to the moneys which they are authorised to borrow by their 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 existing mortgages.

15. 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 any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

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

16. Section 31 (For appointment of receiver) of the Southend Waterworks Act 1898 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.

17. 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 ten thousand pounds in the whole.

Debenture stock.

18. 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 Southend Waterworks Act 1879 Notice of the

A.D. 1904.

effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture stock and mortgages to be sold by auction.

19. 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.

20. If any money is payable to a shareholder or 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.

21. 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 upon the Company.

Power to local authority to supply water in case Company fails to supply.

22. If at any time after the expiration of five years from the commencement of this Act the Company are not furnishing or prepared on demand to furnish a sufficient supply of water in any part of the district of any local authority within the limits of supply the local authority of such district may provide a supply in the whole or such part of their district within the limits of supply not sufficiently supplied by the Company in accordance with the provisions of the Public Health Act 1875.

If any difference shall arise between the Company and any such local authority as to the sufficiency of the supply of water in any part of such district such difference shall be settled by an arbitrator to be appointed on the application of either party by the Board of Trade.

A.D. 1904.

Application of moneys.

23. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of the Company's undertaking being in all cases purposes to which capital is properly applicable.

Costs of Act.

24. All costs charges and expenses of and incidental 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.

Printed by Eyre and Spottiswoode,
for
T. Digby Pigott, Esq., C.B., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
Eyre and Spottiswoode, East Harding Street, Fleet Street, E.C.; or
Oliver and Boyd, Edinburgh; or
E. Ponsonby, 116, Grafton Street, Dublin.