CHAPTER lxxxix.

An Act to authorise the Sutton District Water Company to raise further capital and for other purposes. A.D. 1887.

[5th July 1887.]

WHEREAS by the Sutton District Waterworks Act 1871 (herein-after called "the Act of 1871") the Sutton District Water Company (herein-after called "the Company") were incorporated with an original share capital of twenty thousand pounds and power to raise forty thousand pounds additional share capital and to borrow fifteen thousand pounds for the purpose of supplying with water certain places in the county of Surrey:

And whereas the Company have raised and expended the whole of their authorised capital and have borrowed nine thousand pounds:

And whereas the population and demands for water within the Company's limits of supply have since the year eighteen hundred and seventy-one greatly increased and are likely to still further increase:

And whereas it is expedient that the Company should be authorised to raise additional capital and that the further powers herein-after contained should be conferred upon the Company with reference to their undertaking and that the Act of 1871 should be in some respects amended:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited for all purposes as the Sutton District Waterworks Act 1887. Short title.

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Incorporation of general Acts.

2. The provisions of the Companies Clauses Consolidation Act 1845 with respect to—

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 general meetings of the Company and the exercise of the right of voting by the shareholders:

The making of dividends:

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

The conversion of borrowed money into capital:

The consolidation of the shares into stock: and

The provision to be made for affording access to the special Act by all parties interested:

And Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 and the Lands Clauses Consolidation Act 1845 (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and the entry upon lands) and the Lands Clauses Consolidation Acts Amendment Act 1860 are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

3. The terms to which meanings are assigned in Acts incorporated wholly or in part with this Act or which have therein special meanings have in this Act (unless varied thereby) the same respective meanings and in this Act and (for the purposes of this Act) in Acts incorporated wholly or in part with this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression shall have effect as if the debt or demand with respect to which it is used were a simple contract debt and not a debt or demand created by statute.

Purchase of land by agreement.

4. In addition to the lands which the Company are under the Act of 1871 authorised to take or purchase the Company may by agreement take and purchase and hold for the purposes of their water undertaking any lands within the limits for the supply of water as defined by the Act of 1871 not exceeding in the whole ten acres in extent or any term interest or easement in over or under any such lands but no buildings shall be erected on such lands

whilst the same are held by the Company except buildings required for the water undertaking of the Company or dwellings for officers servants or workmen of the Company:

Provided that the Company shall not either in exercise of the powers conferred upon them under or by virtue of the Act of 1871 or section 12 of the Waterworks Clauses Act 1847 or otherwise sink any wells or shafts or drive any adits in upon or under any lands acquired by them under the powers of this Act or abstract any water which may be found in on or under such lands except in so far (if at all) as such water may now be liable to abstraction by the exercise of the existing powers of the Company under the Act of 1871.

Power to hold &c. lands for protection of works.

5. Notwithstanding anything in the Lands Clauses Consolidation Act 1845 or the Act of 1871 contained the Company may hold any lands which they may have acquired or may in future acquire under this Act or the Act of 1871 and which they may deem necessary for the purpose of protecting their waterworks or water supply against nuisances encroachments or injury and unless and until it shall have been decided by two justices that such necessity has ceased to exist such lands shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Consolidation Act 1845 and the Company may from time to time demise and let any lands so held by them for any term not exceeding twenty-one years and if and when such necessity as aforesaid shall in the opinion of the Company cease to exist the Company may subject to the provisions of sections 128 to 131 (both inclusive) of the Lands Clauses Consolidation Act 1845 so far as the same are applicable sell or may exchange or otherwise dispose of such lands or any estate or interest of the Company therein to such persons and in such manner as the Company think fit and in any such sale lease exchange or disposal the Company may reserve to themselves all or any water or water rights or other easements in or over or under such lands and may make the sale lease exchange or disposal subject to such reservations conditions restrictions or provisions with respect to use of water noxious trades discharge or deposit of sewage or manure and other like matters as the Company think fit.

Restriction on displacing persons of the labouring class.

6. The Company shall not under the powers of this Act without the consent of the Local Government Board purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

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For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Application of funds.

7. The Company may apply for the purposes of this Act to which capital is properly applicable any money which they have raised or are authorised to raise under the Act of 1871 and not thereby made applicable for any particular purpose or if so made applicable not required for that purpose.

Power for Company to raise further capital.

8. The Company from time to time may (subject to the provisions of Part II. of the Companies Clauses Act 1863) raise for the purposes of this Act and for the general purposes of their undertaking any additional sum or sums of money not exceeding in the whole sixty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively but the Company shall not issue any share of less nominal value than ten pounds nor shall any share vest in the person or corporation accepting the same unless and until the full nominal amount of such share or stock (if such share or stock shall be issued at or above par) together with any premium obtained upon the sale thereof shall have been paid in respect thereof Provided that 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 premiums which may be obtained on the sale thereof the sum of sixty thousand pounds Provided also that the Company shall not under the powers of this Act within the two years following the passing of this Act issue any greater amount of mortgages debenture stock or preference or ordinary shares or stock than shall be sufficient to produce in the aggregate including any premium which may be obtained thereon the sum of twenty thousand pounds Nor shall the Company create and issue in any subsequent year any greater amount of mortgages debenture stock or preference or ordinary shares or stock than shall be sufficient to produce in the aggregate including any premium which may be obtained thereon the sum of five thousand pounds Provided always that if in any year or years the Company have not issued capital to the full amount herein-before prescribed in relation

If authorised capital for any year not

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to such year or years they may in any subsequent year issue in addition to the amount prescribed for such year such amount of capital as shall be sufficient together with the amount then raised to produce in manner aforesaid twenty thousand pounds in respect of the first two years following the passing of this Act and five thousand pounds in respect of every subsequent year then expired Provided that the Company shall not in any one year (after the first two years following the passing of this Act) issue any greater amount of capital than shall be sufficient to produce ten thousand pounds.

raised the amount may be made up.

9. Subject to the provisions of this Act and any resolution of the Company creating any new capital in shares or stock under this Act any 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.

Incidents of shares or stock.

10. The Company shall not out of the profits of their undertaking in any one year make any larger dividend on the additional share capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which may have fallen short of the said sum of seven pounds per centum per annum.

Limit of dividend on new shares and stock.

11. If in any one year the net revenues of the Company applicable to dividend on ordinary capital shall be insufficient to pay the full amount of the prescribed rate of dividend on each class of ordinary stock or shares in the capital of the Company a proportionate deduction shall be made in the dividend of each class of such capital.

Dividends on different classes of ordinary capital to be paid proportionately.

12. Subject to the provisions of this Act 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.

Dividend on new shares or stock.

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Restriction as to votes in respect of debenture stock and preferential shares or stock.

13. No person shall be entitled to vote in respect of any debenture stock under this Act nor (except as otherwise expressly provided by the resolution creating the same) in respect of any new shares or stock to which a preferential dividend shall be assigned.

Receipt clause in case of persons not sui juris.

14. 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.

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

15. Notwithstanding anything in this Act contained the Company shall when any shares or stock (other than debenture 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 fifty 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 provided that no priority of tender shall be allowed to any holder of shares or stock in the Company.

Purchase money of capital sold.

16. It shall be one of the conditions of any sale of shares or stock under this Act that the whole nominal amount thereof together with any premiums given by any purchaser at such sale shall be paid to the Company within three months after such sale.

As to notice to be given as to sale &c. of shares or stock.

17. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the clerk of every urban sanitary authority having jurisdiction within the limits of supply and to the secretary of the Committee of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and notice of such intention shall be duly advertised with a declaration of the minimum price at which such shares or stock would be sold once in each of two consecutive weeks in one or more local newspapers published and circulating within the limits of supply.

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

18. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserved price put upon the same respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863 Provided always that any shares or stock so offered and not accepted

within the time prescribed by the said Act shall again be offered for sale by public auction or by tender in the manner and subject to the provisions of this Act with respect to the sale of shares and stock created under the powers of this Act.

Application of premium arising on issue of shares or stock.

19. Any sum of money which shall arise from the issue of any such shares or stock by way of premium after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the works of the Company or in paying off money borrowed or owing on mortgage by the Company and shall not be considered as part of the capital of the Company entitled to dividend.

Power to borrow.

20. Subject to the provisions of this Act the Company may in respect of the additional capital of sixty thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of their undertaking any sum not exceeding one-fourth part of the amount of such capital as is for the time being created and issued but no part of the said sum shall be borrowed until the whole of the shares or stock in respect of which the said borrowing powers are to be exercised together with the premium (if any) realised upon the sale thereof shall have been fully paid up and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act 1845 before he so certifies that such shares and stock have been issued and fully paid up and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

As to conversion of borrowed money into capital.

21. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the issue of debenture stock or any part thereof by the creation of shares or stock instead of borrowing or to convert into capital any money borrowed under the provisions of this Act unless in either case all dividends upon such shares or stock whether ordinary or preferential are limited to a rate not exceeding five pounds per centum per annum.

Repeal of section 28 of Act of 1871.

22. Section 28 (for appointment of a receiver) of the Act of 1871 is hereby repealed but without prejudice to any appointment heretofore made or proceedings now pending.

For appointment of a receiver.

23. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on

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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 in the whole than four thousand pounds.

Debenture stock.

24. 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 or in the Act of 1871 contained the interest of all debenture stock and of all mortgages at any time after the passing of this Act created and issued or granted by the Company under the Act of 1871 and this and 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 or mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages and notice of this section shall be endorsed on all mortgages and on all certificates of debenture stock granted or created and issued subject to the provisions thereof.

Existing mortgages to have priority.

25. All mortgages granted by the Company in pursuance of the powers of the Act of 1871 before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Act of 1871 have priority over any mortgages granted or debenture stock issued by virtue of this Act.

Application of moneys raised under this Act.

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

Power to sell or let meters.

27. The Company may from time to time sell and dispose of meters and any fittings thereto upon and subject to such terms (pecuniary or otherwise) and conditions as the Company think fit and may let for hire any meter for ascertaining the quantity of water consumed or supplied and any fittings thereto for such remuneration in money and on such terms and conditions with respect to the repair maintenance and protection of such meter and fittings and for securing access to and the safety and return to the Company of such meter and fittings as the Company may prescribe or as may be from time to time agreed upon between the hirer and the Company and such remuneration shall be recoverable in the same manner as water rents rates or charges due to the Company.

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Fraudulently injuring meters &c.

28. If any person wilfully fraudulently or by culpable negligence injures 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 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 five pounds and the Company may in addition thereto recover the amount of any damages sustained by them 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 the same has been fraudulently caused by the customer using such pipe meter or fitting.

Repair of meters.

29. Every consumer of water of the Company shall at all times at his own expense keep all meters belonging to him whereby any water of the Company is registered in proper order for correctly registering such water in default whereof the Company may cease to supply water through such meters and the Company shall at all reasonable times have access to and be at liberty to take off remove test inspect and replace any meter belonging to a consumer such taking off removal testing and inspecting and replacing to be done at the expense of the Company if the meter be found in proper order but otherwise at the expense of the consumer.

Register of meter to be primâ facie evidence.

30. The register of the meter shall be primâ facie evidence of the quantity of water consumed in respect of which any water rent is charged and sought to be recovered by the Company Provided always that if the Company and the consumer differ as to the quantity consumed such difference may be determined upon the application of either party by two justices who may also order by which of the parties the costs of the proceedings before them shall be paid and the decision of the justices shall be final and binding on all parties.

Service pipes

31. The service pipes to communicate with the mains and pipes of the Company and the fittings connected therewith shall be laid placed and removed under the superintendence of the Company and at the expense of the persons requiring or having the supply and either by the Company or some person approved by the Company.

Company not bound to supply

32. The Company shall not be bound to supply more than one house by means of the same service pipe but they may if they think

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several houses by one pipe.

fit require that a separate pipe from the main be laid into each house supplied by them with water.

Where several houses supplied by one pipe each to pay.

33. When several houses or parts of houses in the occupation of several persons are supplied by one common pipe the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been separately supplied with water from the works of the Company from a distinct pipe.

Supply of water to tenements in a row.

34. Where there is a pair of tenements or there are several tenements in a row or group 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 of such tenements unless such tenant or occupier be in respect of the tenement so occupied by him rated under the Act of 1871 or this Act for a supply of water.

Power to lay pipes in streets not dedicated to public use.

35. The Company may upon the application of the owner or occupier of any premises abutting on or being erected in any street or road laid out or made but not dedicated to public use supply such premises with water and may lay and from time to time take up alter relay or renew in across or along such street or road such pipes as may be requisite or proper for the furnishing such supply and the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid so far as they are respectively applicable for the purpose of this section shall extend and apply mutatis mutandis to and for the purposes thereof.

For the protection of the London Brighton and South Coast Railway Company.

36. Section 49 of the Sutton District Waterworks Act 1871 (for the protection of the London Brighton and South Coast Railway Company) shall so far as the same is or may become applicable extend and apply in as full and complete a manner as if that section were re-enacted in this Act.

Representation of the Company in bankruptcy &c.

37. In proceedings under any bankruptcy or deed of composition or arrangement or liquidation by arrangement with creditors the secretary of the Company or any person appointed in his behalf by writing under his hand may represent the Company and shall be competent to act for the Company and his acts and omissions shall bind the Company in all respects as if the claim or demand of the Company in such proceedings were the personal claim of such secretary or person and not of the Company.

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Form and service of notices by Company.

38. Any notice to be served on a person supplied with water may be either in print or in writing (including lithograph) or partly in print and partly in writing (including lithograph) and shall be sufficiently authenticated by the name of the secretary to the Company or if it be a notice to pay any charge in respect of a supply of water by the name of the collector of the Company being affixed thereto in print or in writing (including lithograph) or by a stamp and any such notice may be served on such person either personally or by sending the same through the post by a prepaid letter addressed to him by name at his last known place of abode or business or by delivering the same to some inmate of his last known or usual place of abode or business or to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after diligent inquiry unknown it shall be sufficient to affix it or a copy thereof upon some conspicuous part of such premises Any instrument so served by post as aforesaid shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the instrument was properly addressed and posted.

Contents of summons.

39. 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 relative to one and the same offence.

Costs of distress.

40. 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 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.

Costs of Act.

41. The costs charges and expenses of and incident to the preparing applying for obtaining and passing of this Act shall be paid by the Company.

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