

**CHAPTER. xxi.**

An Act for conferring further powers upon the Borough of Portsmouth Waterworks Company. A.D. 1879.
[23d May 1879.]

WHEREAS by the Borough of Portsmouth Waterworks Act, 1857, the Borough of Portsmouth Waterworks Company (in this Act called the Company) were incorporated, and by that Act and three other Acts passed respectively in the years 1861, 1868, and 1873, and by the Cosham, Havant, and Emsworth Water Order, 1872, the Company were empowered to make works and to supply water within the limits prescribed by the first Act and the said Order:

20 & 21 Vict.
c. xlv.

24 & 25 Vict.
c. xxi.

31 & 32 Vict.
c. xxix.

36 & 37 Vict.
c. cvi.

35 & 36 Vict.
c. lxxix.

And whereas by the said Acts of 1857, 1861, and 1868, the Company were empowered to raise by the creation of shares one hundred and eighty thousand pounds, and by borrowing forty-four thousand pounds, making together two hundred and twenty-four thousand pounds:

And whereas the Company have exhausted the whole of their authorised share capital and borrowing powers, and have incurred considerable expenditure in alterations of works and construction of additional works rendered necessary by reason of the works effected by Her Majesty's Government in connexion with the Hilsea fortifications, and for the purpose of affording a supply to the Government dockyard and works at Portsmouth, and in carrying into effect the provisions of the said Act of 1873 for securing a constant supply of water within their district:

And whereas it is expedient that the Company should be empowered to maintain and renew the said altered and additional and other works, and acquire the lands, waters, and water rights in this Act respectively described or referred to, and to raise further moneys for the purposes of their undertaking:

And whereas plans of the lands which may be taken under the powers of this Act, and books of reference to those plans containing

A.D. 1879. the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, were duly deposited with the clerk of the peace for the county of Southampton :

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 ; (that is to say,)

Short title. 1. This Act may be cited for all purposes as the Borough of Portsmouth Waterworks Act, 1879.

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,)

8 & 9 Vict. c. 18. The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 :

23 & 24 Vict. c. 106. The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters ; (namely,)

32 & 33 Vict. c. 18. The distribution of the capital of the Company into shares ;

8 & 9 Vict. c. 16. 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 ;

The conversion of the borrowed money into capital ;

The consolidation of shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ;

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

26 & 27 Vict. c. 118. 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.

Interpretation of terms. 3. The several words and expressions to which by the Acts in whole or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless excluded by the subject or context ; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or

in any Act in whole or in part incorporated with this Act, shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute. A.D. 1879.

4. Subject to the provisions of this Act, the Company may maintain and renew as part of their undertaking the conduits or lines of pipes herein-after described, all in the county of Southampton; (that is to say,) Power to
Company to
maintain
and renew
works.

(1.) So much of their existing conduits or lines of pipes from their upper reservoirs on Portsdown Hill to the borough of Portsmouth as is or are laid along the new road through the Hilsea fortifications, between its junction with the old London turnpike road near Cosham in the parish of Wymering and its junction with the same road near Hilsea in the same parish, all in the county of Southampton:

(2.) The conduits or lines of pipes commencing at Brockhampton in Havant parish, at the western side of the Company's collecting reservoirs and works there, and terminating in Farlington parish by a junction with the main pipe forming part of the Farlington Waterworks, at a point in the Portsmouth and Chichester turnpike road at or near the end of the Farlington Waterworks Lane:

(3.) The conduits or lines of pipes wholly in the said parish of Farlington, commencing from and out of the said upper reservoirs on Portsdown Hill, and terminating by junctions with the last-mentioned conduits or lines of pipes in the said turnpike road, at or near the end of the Farlington Waterworks Lane:

(4.) The conduits or lines of pipes partly in the parish of Havant and partly in the parish of Bedhampton, from and out of the Company's two south-easternmost Bedhampton springs to and terminating at the west side of the Company's Havant works.

5. Subject to the provisions of this Act, the Company from time to time may enter upon, take, and use for the purposes of their undertaking all or any of the lands shown on the deposited plans and described in the deposited books of reference, and all or any of the waters and water rights in or connected with those lands, or in any of them, and may divert, as shown on the deposited plans, the watercourse which runs past their existing reservoirs; and where they think fit they may purchase by agreement, but not otherwise, any easements, interests, or rights (not being easements or rights of water) Power to
Company to
acquire
lands.

A.D. 1879. in, out of, over, or affecting any of those lands, without taking the lands or any other estate or interest therein.

For protection of Francis George Foster.

6. Provided always, that if and when the Company require to divert the watercourse by the last preceding enactment authorised to be diverted, they shall, unless otherwise agreed and before diverting the said watercourse, make to Francis George Foster, or other the owner for the time being of the tannery in the parish of Havant now in his occupation, due compensation in water for and in lieu of the watercourse so diverted, in such quantity and manner as the parties may agree upon, and any difference between them as to the quantity of water to be delivered as such compensation, or as to the manner of delivery, or otherwise in relation thereto, shall be determined by and in the manner prescribed by the Lands Clauses Consolidation Act, 1845, with respect to the purchase and taking of lands otherwise than by agreement :

And in case the arbitrators or their umpire shall be of opinion that such compensation in water for the diversion of the said watercourse does not wholly cover the damages sustained by reason of such diversion, the arbitrators or their umpire shall also award and determine what sum, if any, shall be paid by the Company to the said Francis George Foster, or other the owner for the time being of the said tannery, by way of compensation for the value of the water diverted by the Company from the said tannery, and for the damage, if any, sustained by the said Francis George Foster, or other the owner for the time being as aforesaid, by reason of the exercise by the Company of the powers conferred upon them by the last preceding enactment :

Provided also, that the power to divert the said watercourse by this Act conferred upon the Company shall not be exercised after the expiration of seven years from the passing of this Act.

Period for compulsory purchase of lands.

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

Power to owners to sell easements, &c. by agreement.

8. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands, may, 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 easement, right, or privilege (not being an easement or right to take water in which other than the parties to the agreement have an interest), required for the purposes of the Company, 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.

9. The Company and the Havant Urban Sanitary Authority and the Havant Rural Sanitary Authority may make and carry into effect agreements with reference to the alteration, improvement, and diversion of the cut or watercourse on the south-east side of the Company's Bedhampton springs, and with reference to the diversion by this Act authorised of the watercourse herein-before mentioned or referred to. A.D. 1879.
Provision for agreements with Havant Sanitary Authorities.
10. In addition to the capital which the Company are now authorised to raise, they may from time to time raise for the purposes of this Act and for the general purposes of their undertaking, by the creation and issue of shares or stock, such capital as they shall think necessary, not exceeding forty-five thousand pounds, and the Company may create and issue such shares or stock either wholly or partially as ordinary or wholly or partially as preferential shares or stock, as they may think fit. Power to Company to raise additional money by creation of shares or stock.
11. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof. Shares not to issue until one-fifth part paid up.
12. The Company shall not in any one year make out of their profits 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. Profits of the Company limited.
13. Except as otherwise provided by this Act, the capital created by the Company under this Act, and the shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, forfeitures, 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 those shares and that stock were shares and stock in that capital. Except as otherwise provided, new capital to be subject to same incidents as other capital.
14. Every person who becomes entitled to a share or any stock created by the Company under this Act 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. Dividends on new shares or stock.

A.D. 1879.
Calls.

15. Except shares in any capital substituted for borrowed money, one fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fifths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share: Provided always, that in respect of the prescribed interval between successive calls the deposit or instalment required to be paid upon the allotment of a share shall not be deemed to be a call.

Votes and
qualifica-
tions of hold-
ers of new
shares or
stock.

16. The holders of the shares or stock created under this Act shall be entitled to vote in respect thereof according to the scale specified in section 75 of the Companies Clauses Consolidation Act, 1845:

Provided that (unless otherwise specified in any resolution of the Company) no person shall be entitled to vote in respect of any share or stock created under this Act to which a preferential dividend shall be assigned.

Receipt
clause in
case of
persons not
sui juris.

17. If any money is payable to a holder of shares or stock in the Company, being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to
borrow on
mortgage.

18. The Company may from time to time, in addition to their already authorised loans, borrow on mortgage, in respect of each full sum of ten thousand pounds of the additional share capital of forty-five thousand pounds by this Act authorised, any sums not exceeding in the whole two thousand five hundred pounds, and in respect of the remaining five thousand pounds of such additional capital any sums not exceeding in the whole one thousand two hundred and fifty pounds; provided that no part of any such sum of two thousand five hundred pounds or one thousand two hundred and fifty pounds to be so borrowed shall be borrowed until shares for so much of the respective ten thousand pounds or five thousand pounds of additional capital in respect of which it is authorised to be borrowed as is to be raised by means of shares are 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 shares for the whole of the respective ten thousand pounds or five thousand pounds of additional capital have been issued and accepted, and that one half thereof has been paid up; and until stock for one half of such respective portion of additional capital as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted

and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, or assigns, and also, so far as the said respective portion of additional capital is raised by shares, that such persons or corporations, or their executors, administrators, 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 certificate shall be sufficient evidence thereof.

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19. 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.

As to conversion of borrowed money into capital.

20. Every provision in any Act passed before the present session of Parliament, whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking, with respect to the appointment of a receiver for enforcing payment by the Company of arrears of principal money, or principal money and interest, shall be and the same is hereby repealed, but without prejudice to any appointment which may have been made, or to the continuance of any proceedings which may have been commenced, prior to the passing of this Act under any such provision.

As to appointment of receiver.

The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; and in order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

21. 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 at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Company may create debenture stock.

22. All mortgages or bonds granted or to be granted under the authority of any former Act relating to the Company shall, during the continuance thereof and subject to the provisions of the Acts

Priority of existing mortgages.

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under which such mortgages or bonds were respectively granted, have priority over any mortgages granted by virtue of this Act; and 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.

Priority of mortgages over other debts.

23. All money raised or 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 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 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.

24. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied to the purposes of this Act and to the general purposes of their undertaking, and to no other purpose.

Expenses of Act.

25. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.