



## CHAPTER cxvi.

An Act for defining and extending the limits of supply of the Westgate and Birchington Water Company and for conferring further powers on the Company for the construction of works the raising of capital and otherwise in relation to their undertaking and for other purposes. A.D. 1900.  
[30th July 1900.]

**W**HEREAS by the Westgate and Birchington Water Act 1879 (in this Act called "the Act of 1879") the Westgate and Birchington Water Company (in this Act called "the Company") were incorporated for the purposes of acquiring maintaining extending and improving the waterworks of Edmund Francis Davis and for making and maintaining the works by that Act authorised and for supplying water within the limits of that Act and for carrying the powers of that Act into execution :

And whereas the Act of 1879 provides that the capital of the Company shall be twenty-two thousand pounds divided into two classes to be called respectively capital A and capital B and that capital A shall consist of capital stock to the amount of eight thousand pounds and capital B shall consist of share capital to the amount of fourteen thousand pounds and that eight thousand pounds the capital A stock of the Company shall be deemed fully paid up and is by that Act appropriated to and vested in the said Edmund Francis Davis as the consideration for the transfer of the waterworks and the water undertaking of the said Edmund Francis Davis and that the Company may borrow in respect of their capital stock of eight thousand pounds any sum not exceeding two thousand pounds and in respect of the share capital of fourteen thousand pounds any sum not exceeding three thousand five hundred pounds and may create and issue debenture stock :

And whereas the Company have constructed the works authorised by the Act of 1879 and have raised and expended the whole of their



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And whereas the limits of the Act of 1879 include so much and such parts of the parishes of Saint John the Baptist Minster Acol and Birchington in the Isle of Thanet in the county of Kent as is comprised within the boundary set forth in the schedule to the Act:

And whereas since the passing of the Act of 1879 the parts of the parishes of Saint John the Baptist Minster and Acol included within the limits of the Act of 1879 together with a further portion of the said parish of Saint John the Baptist have by an order of the county council of Kent dated the 17th day of July 1894 confirmed subject to modifications by an order of the Local Government Board dated the 29th day of October 1894 been made a separate civil parish to be called the parish of Westgate-on-Sea:

And whereas it is expedient that the limits within which the Company may supply water and exercise the powers of the Act of 1879 and this Act be defined and extended so as to include the whole of the parishes of Westgate-on-Sea Wood otherwise Acol and Birchington all in the rural district of the Isle of Thanet in the county of Kent as by this Act provided:

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 in order to increase and improve the supply of water to places within their limits of supply the Company have by agreement with the owners of the land in which the same is constructed made and executed the adit or heading herein-after described wholly situate in the parish of Westgate-on-Sea and acquired the necessary easements therefor and expended thereon a portion of the moneys raised under the Act of 1879, and it is expedient that the making of such works and the expenditure of money thereon be sanctioned and confirmed and that the Company be authorised to hold and maintain such works as part of their waterworks undertaking:

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 by the Margate Waterworks Act 1857 (in this Act called "the Act of 1857") the Margate and Broadstairs Waterworks Company (herein-after referred to as "the Margate company")



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were incorporated for the purpose of making works for supplying the inhabitants of the parishes of Saint John the Baptist (including the town of Margate) and Saint Peter the Apostle (including Broadstairs) with water and by the Margate Water Order 1872 confirmed by the Gas and Water Orders Confirmation Act 1872 and by the Margate Water Order 1879 confirmed by the Gas and Water Orders Confirmation Act 1879 further powers were conferred on the Margate company:

And whereas the Margate company never supplied water in the portion of the parish of Saint John the Baptist which is now included in and forms part of the parish of Westgate-on-Sea:

And whereas the mayor aldermen and burgesses of the borough of Margate (herein-after called "the corporation") under the powers in that behalf of the Public Health Act 1875 acquired the undertaking of the Margate company or so much thereof as was situate within the borough of Margate and that company has been wound up and dissolved and it is expedient that the Act of 1857 in so far as the same authorises the supply of water within any part of the said parish of Westgate-on-Sea which was formerly included in and formed part of the said parish of Saint John the Baptist should be repealed and that any powers rights duties and obligations (if any) of the corporation of supplying water or with reference to the supply of water within such part of the said parish of Westgate-on-Sea should cease and determine as by this Act provided:

And whereas plans and sections showing the lines and levels of the works authorised by this Act and also a book 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 Kent and are herein-after respectively referred to as the deposited plans sections and book 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:—

1. This Act may be cited as the Westgate and Birchington Water Act 1900 and the Act of 1879 and this Act may be cited

Short title  
and mode of  
citing Acts of  
Company.

[Ch. cxvi.] *Westgate and Birchington Water* [63 & 64 Vict.]  
Act, 1900.

A.D. 1900. — together as the Westgate and Birchington Water Acts 1879 and 1900.

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.

Defining and extending limits of supply.

4. The limits within which the Company may supply water and exercise the powers conferred upon them by the Act of 1879 as amended and this Act shall be the parishes of Westgate-on-Sea



Wood otherwise Acol and Birchington all in the rural district of the Isle of Thanet in the county of Kent and within and throughout such limits the Act of 1879 as amended and this Act shall henceforth be in full force and have effect. A.D. 1900.

5. If at any time after the expiration of five years from the passing of this Act the Company are not furnishing or prepared on demand to furnish a sufficient supply of water in accordance with the provisions of this Act in any part of the district of any local authority within the extended limits the local authority of such district may provide a supply in the whole or any part of their district within the extended limits in accordance with the provisions of the Public Health Act 1875 or any company body or person may apply for an Act of Parliament or Provisional Order for the purpose of supplying water in any part of such district within the extended limits not sufficiently supplied by the Company as if in either case this Act had not been passed. Power to local authority &c. within extended limits to supply water in case Company fails to supply.

If any difference shall arise between the Company and any such local authority company body or person as to the sufficiency of the supply of water in any part of such district within the extended limits such difference shall be settled on the application of either party by the Board of Trade.

6. 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 thereof the works in this section described together with all necessary works and conveniences in connection therewith and may enter upon take and use such of the lands delineated on the said plans and described in the deposited book of reference relating thereto 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 rural district of the Isle of Thanet in the county of Kent (that is to say):— Power to make works.

An adit or heading commencing by a junction with the existing adit or heading of the Company in the parish of Westgate-on-Sea and terminating in the parish of Wood otherwise Acol.

7. The making and constructing by the Company of the works in this section mentioned is hereby sanctioned confirmed and authorised and the Company may hold maintain and use the same as part of their waterworks and undertaking (that is to say):— Sanctioning adit at Westgate.

An adit or heading wholly situate in the said parish of Westgate-on-Sea commencing at a point in the Minster Road passing through the pumping station of the Company and terminating

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at or near the boundary between the said parishes of Westgate-on-Sea and Birchington:

And the purchase and acquisition by the Company of any lands and easements for the purposes of the said adit and all acts done and all expenditure of money by the Company in relation to or in connection with the construction maintenance and use of the said works and the purchase and acquisition of lands and easements therefor is hereby sanctioned confirmed and legalised.

Deviation.

8. 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 twenty feet upwards and to any extent downwards.

Works to form part of undertaking of Company.

9. 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.

10. 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.

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

Power to acquire easements only for adit.

12. The Company may in lieu of acquiring any lands for the purpose of the adit or heading 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 adit or heading 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:

Provided that as regards any lands taken or used by the Company for the purpose of such adit or heading 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: A.D. 1900.

Provided also that except as to land forming part of a street whether dedicated to the public use or not 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 proviso but this proviso shall not apply in regard to so much of the adit or heading by this Act authorised as shall be at a depth of not less than forty feet from the surface of the ground.

13. 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 three 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. Power to acquire additional lands by agreement.

14. 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 rent-charges 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. Persons under disability may grant easements &c.

15. The Company may make and carry into effect agreements with the owners of any lands in under or through which the works Agreements with owners.



A.D. 1900. by this Act authorised are made with reference to the execution by the Company of such works and the purchase or acquisition of lands or easements in lands therefor and the Company may make and any of such owners may accept compensation for such lands or easements either in money or in water or in both.

Restriction  
on taking  
houses of  
labouring  
class.

**16.**—(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) If the Company acquire or appropriate any house or houses under the powers of this Act in contravention of the provisions of this section they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

(3) 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 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 ;

The expression “house” means any tenement separately occupied by any person or persons.

Period for  
completion  
of works.

**17.** If the works authorised by this Act and shown on the deposited plans are not completed within five 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.



**18.** The Company may for water supplied by them for domestic and other purposes demand and take rates and charges not exceeding those which for a like supply under the like circumstances the Company may demand and take in pursuance of the Act of 1879.

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Water rates.

**19.**—(1) Section 20 (Number of directors) of the Act of 1879 is by this Act repealed.

Number of directors.

(2) The number of the directors shall be five but the Company may from time to time alter the number provided that the number be never more than five nor less than three.

**20.**—(1) Section 22 (Quorum) of the Act of 1879 is by this Act repealed.

Quorum of directors.

(2) The quorum of a meeting of directors shall be three.

**21.** On the passing of this Act section 33 of the Act of 1879 shall be read and have effect as if the words ("including one water-closet but not any bath") had been omitted therefrom and the following provisoes shall be added to and form part of that section :—

Amendment of section 33 of Act of 1879.

(A) Provided that the Company shall in no case be entitled to demand for the water rate for any house or part of a house included in any division of the above scale a greater sum of money than they would be entitled to demand if such house or part of a house were of just such higher rental as would bring it within another division of the said scale :

(B) Provided that where the water rate is chargeable on the gross estimated rental of a part only of any hereditament such gross estimated rental shall be a fairly apportioned part of the gross estimated rental of the whole tenement the apportionment in case of dispute to be ascertained by a court of summary jurisdiction.

**22.** On the passing of this Act the following proviso shall be added to and form part of section 39 of the Act of 1879 Provided that the foregoing provisions shall not entitle the Company to cut off or discontinue the domestic supply of the house in which such water-closet or bath is situate.

Amendment of section 39 of Act of 1879.

**23.** 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 Act of 1879 any capital not exceeding in the whole for the purposes of this Act and for the general purposes of their undertaking twenty thousand pounds by the creation and issue at their option of new ordinary shares or stock or

Power to raise additional capital.



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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 twenty 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.

24. 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.

25. 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.

Restrictions as to votes in respect of preferential shares or stock.

26. 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.

Limitation of dividend on additional share capital.

27. The Company shall not in any one year pay any larger dividend on the additional 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 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 seven 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. A.D. 1900

**28.** In case in any half-year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary shares or stock in the capital of the Company a proportionate reduction shall be made in the dividend of each class.

Dividend on different classes of ordinary shares or stock to be paid proportionately.

**29.** 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.

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

**30.** 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.

Purchase-money of capital sold to be paid within three months.

**31.** The intention to sell any such shares or stock by auction or by tender shall be communicated in writing 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

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



A.D. 1900. — more local newspapers circulating within any part of the limits of supply of the Company.

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

**32.** 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 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 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.

**33.** 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.

**34.** The Company may in addition to the moneys which they are authorised to borrow by the Act of 1879 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.

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**35.** 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.

Priority of principal moneys secured by existing mortgages.

**36.** Section 14 (Appointment of receiver) of the Act of 1879 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.

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

**37.** 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 one thousand pounds in the whole.

For appointment of receiver.

**38.** 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 16 of the Act of 1879.

Power to create debenture stock.

**39.** 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.

Receipt in case of persons not sui juris.

**40.** 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

Priority of money raised on mortgage or debenture stock over other claims.



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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.

41. 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 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.

Confirmation  
of scheduled  
agreement.

42. The agreement dated the twentieth day of April one thousand nine hundred between Percy Horace Gordon Powell-Cotton and Gerald McLeod Powell-Cotton of the one part and the Company of the other part set forth in the schedule to this Act is hereby confirmed and made binding on the parties thereto and they are hereby authorised to carry the same into effect.

Repeal of  
portion of  
Act of 1857.

43. The Act of 1857 so far as the same authorises or relates to the supply of water to or in so much and such parts of the said parish of Westgate-on-Sea as was formerly included in and formed part of the parish of Saint John the Baptist is hereby repealed and from and after the passing of this Act all rights powers privileges authorities duties and obligations (if any) of the corporation of supplying water or with reference to the supply of water to or in such part of the said parish of Westgate-on-Sea shall absolutely cease and determine.

Provisions  
as to sale of  
certain mains  
and pipes of  
corporation  
to Company.

44. The Company shall purchase and the corporation shall sell such portion if any of the water undertaking of the corporation as at the passing of this Act may be comprised within the following boundary in the parish of Westgate-on-Sea:—

A line commencing in the centre of the Margate and Canterbury Road at a point where that road meets the western boundary of the parish of Garlinge thence in a westerly direction along the centre of the same road to the point where it meets the boundary of the ancient parish of Saint John the Baptist Thanet and thence in a southerly and easterly direction along that boundary until it meets the western boundary of the parish of Garlinge and thence in a northerly direction along the last-mentioned boundary until it meets the first-mentioned point on the Margate and Canterbury Road;



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at such price being a sum in gross and upon such terms and conditions as shall be fixed in default of agreement by arbitration under the provisions of the Lands Clauses Acts. The proceeds of any sale under this section shall be applied by the corporation in discharge of moneys borrowed by the corporation but shall not be applied in the payment of instalments or to payments into any sinking fund of the corporation except to such extent and upon such terms as may be approved by the Local Government Board.

45.—(1) If at any time within two years from the passing of this Act the Isle of Thanet Rural District Council (in this section called "the council") shall after having given not less than six months' notice in writing to the Company of their desire to purchase the undertaking of the Company obtain the consent of the Local Government Board for such purchase and shall apply to Parliament or the Local Government Board for power to purchase such undertaking the Company shall not oppose such application except in so far as may be necessary in order to secure the insertion in any Bill introduced into Parliament or in any Order made by the Local Government Board to authorise such purchase of clauses to protect their interests with respect to such purchase and for that purpose the Company shall be at liberty to petition either or both Houses of Parliament and to appear on such petition by counsel agents and witnesses if they think fit and if such powers of purchase be granted the Company shall sell and transfer and the council shall purchase and acquire the undertaking of the Company subject to all the existing mortgages obligations and liabilities of the Company in respect of or affecting their undertaking.

Provisions as  
to purchase of  
undertaking  
by Isle of  
Thanet  
Rural  
District  
Council.

(2) Any such sale and purchase shall be for such price and consideration and on such terms and conditions as may be agreed upon between the Company and the council or as failing such agreement shall be determined by arbitration in accordance with the provisions of the Lands Clauses Acts with reference to the purchase and taking of lands otherwise than by agreement and in the construction of the said provisions the expression "the promoters of the undertaking" shall mean the council and the expression "lands" shall mean the undertaking of the Company.

(3) In addition to the sum to be paid by the council to the Company under the foregoing provisions of this section the council shall pay to the Company a sum equal to the amount of any moneys expended on the undertaking of the Company after the passing of this Act prior to the transfer of the undertaking of the Company to the council but so that no money shall after the giving of the said notice be spent by the Company without the previous approval of the council which shall not be unreasonably withheld and the

A.D. 1900. council shall also pay to the Company all the costs and expenses of and incident to the transfer of the undertaking of the Company and the winding up of the Company and also all the costs charges and expenses incurred by the Company preliminary to and of and incident to the preparing and applying for and obtaining and passing of this Act or otherwise in relation thereto Provided always that no additional value shall be claimed by the Company or given to the undertaking by or by reason of the powers conferred by this Act.

(4) The council shall also pay compensation to any officers and servants in the regular employment of the Company who shall not be retained by the council in the same or similar office or employment and at the salary and on the terms and conditions in at and on which they respectively were employed by the Company at the passing of this Act in respect of any loss of office or diminution of salary or income by reason of the transfer of the undertaking of the Company to the council the amount of such compensation in default of agreement to be determined by arbitration as aforesaid and no officer or servant who has been in the employment of the Company for ten years or upwards shall lose his right to compensation as aforesaid by reason of his declining to continue in the service of the council.

(5) For the purposes of this section—

The expression “the undertaking of the Company” includes all the waterworks engines mains pipes and machinery lands and buildings plant and all the rights powers and privileges vested in or belonging to or had or enjoyed by the Company at the date of the transfer of the undertaking of the Company to the council save and except—

(i) The cash balances (other than consumers' deposits in the Company's hands or in those of their bankers or agents on the day of the transfer) and all sums standing to the credit of their reserve fund and all undivided profits and all surplus stock in trade and stores not in use which may be purchased by the council at a valuation in the usual way ;

(ii) All rents and profits of and all book and other debts due to the Company and all rates accrued due on the date of the transfer and the books and papers relating exclusively to the shareholders in and the constitution of the Company.

Costs of Act. **46.** 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.



The SCHEDULE referred to in the foregoing Act.

A.D. 1900.

AN AGREEMENT made the twentieth day of April nineteen hundred between PERCY HORACE GORDON POWELL-COTTON and GERALD McLEOD POWELL-COTTON both of Quex Park in the Isle of Thanet in the county of Kent Esquires (herein-after called "the grantors") of the one part and THE WESTGATE AND BIRCHINGTON WATER COMPANY (herein-after called "the Company.") of the other part.

THE grantors so far as the provisions and stipulations herein-after contained are to be performed or observed by or to be binding on them their heirs successors in title or assigns hereby agree with the Company and the Company so far as the provisions and stipulations herein-after contained are to be performed or observed by or to be binding on them or their assigns hereby agree with the grantors as follows:—

1. It shall be lawful for the Company to make drive or excavate beneath the lands shown on the plan signed by Cecil Hunter the grantors' surveyor and William Arthur McIntosh Valon the engineer and manager of the Company as the plan referred to in these presents being parts of the Quex Park Estate in the parishes of Birchington and Acol in the county of Kent whereof the said Percy Horace Gordon Powell-Cotton who is a bachelor is tenant for life in possession and the said Gerald McLeod Powell-Cotton is tenant for life in remainder expectant on the decease of the said Percy Horace Gordon Powell-Cotton childless and in the line and direction shown by a red line on the said plan an adit or tunnel (herein-after called "the adit") for the collection and storage of underground water and to carry away or draw off by means of pumps or engines situated elsewhere than on the lands of the grantors the water so collected and to use or dispose of the same for the purposes of their undertaking And for the purpose of the construction of the adit to sink or make pits or shafts at the points marked O and O on the said plan.

2. The adit shall be not more than 12 feet in width and not more than 16 feet in height and shall be in no place less than 50 feet below the surface of the land above the same.

3. The works shall be carried out in all respects to the satisfaction of the grantors their agents and surveyors who shall have access thereto at all times during the construction of the adit and the Company shall at their own expense provide such machinery labour and appliances as shall be necessary for access thereto and return therefrom of the grantors their agents and surveyors.

A.D. 1900.

4. The shaft to be sunk at the point marked O on the said plan shall be so constructed as to be kept and maintained permanently open as a means of access to the adit with proper and sufficient walls and the Company shall have the right of permanent access thereto until the whole of the adit shall have been driven. The Company shall have access to and the right to re-open the last shaft for the time being for the purpose of continuing the adit and for inspection. All the shafts shall upon the completion of the adit for the time being be securely arched over and filled up to the level of the surface of the ground.

5. The Company shall be at liberty to deposit all chalk spoil earth and other material excavated from the shafts and adit upon such lands (if any) as the grantors or either of them shall appoint for such purpose. But if the grantors shall not appoint any lands for the purpose aforesaid or if the land so appointed shall be insufficient for the purpose the Company shall forthwith remove from the lands of the grantors all such chalk spoil earth and other materials or so much thereof as the lands so appointed shall be insufficient to provide for the deposit of.

6. The Company shall on the completion of the works remove from the premises all their plant and machinery and shall restore the surface of the ground (except such lands (if any) as shall have been appointed as aforesaid for the deposit of chalk and spoil) to its original condition and properly dress and cover the same with soil.

7. The works aforesaid shall be fully completed to such satisfaction as aforesaid before the 31st day of December 1914 or such later day as the grantors or their successors in title for the time being shall if they think fit so to do by writing under their hands appoint.

8. Upon completion as aforesaid of the said works within the time limited as aforesaid the grantors will by deed grant to the Company the right in perpetuity to maintain and use the adit and permanent shaft for the purposes aforesaid for the consideration herein-after mentioned.

9. Nothing herein or in such deed contained or to be contained shall entitle the Company to erect or maintain upon or within the lands of the grantors any engine pump or other machinery except such as may be required for the purposes of and during such construction.

10. If the works shall not be completed as aforesaid by the time limited as aforesaid the grantors or either of them may by notice under their or his hand delivered at the Company's office determine this agreement so far as regards all rights and powers of the Company thereunder. But the Company shall pay to the grantors on demand the cost of reinstating in manner aforesaid the surface of the ground so far as the same shall have been opened disturbed or damaged by the works of the Company.

11. If the grantors can arrange to allow the excavated chalk to remain on a site near the line of adit the Company shall have the option of leaving it there on payment to the grantors of 3d. a cubic yard for the chalk so left or of carrying it away immediately.



12. The Company shall pay to the grantors in perpetuity as and by way of rent for the easement to be granted as aforesaid the sum of 1s. per yard run per year commencing from the date on which such section is opened, such payments to be payable half-yearly. A.D. 1900.

13. Within one month after the execution of this agreement the Company shall at their own expense lay down a line or lines of 3-inch pipes from the school along the west side of the park to Acol Hill Farm and from Acol Hill Farm to Sparrow Castle Farm and from Sparrow Castle Farm to the East Lodge and from the East Lodge to Woodchurch Farm and from the present mansion supply to the North Lodge a pipe of sufficient size to supply that lodge and to Somali Farm from the existing water main of the Company a pipe of sufficient size to supply that farm but the cost of the pipe from East Lodge to Woodchurch Farm shall not be borne and paid by the Company and the Company will connect such pipes by means of proper services and meters for the purpose of measuring the water with all the farm and other buildings houses cottages and lodges of the Quex Park Estate such connection to be made under the direction and to the satisfaction of the surveyor for the time being of the grantors And the Company shall (unless and until this agreement shall be determined as aforesaid) supply as compensation every year commencing with the 1st January and ending with the 31st December a maximum quantity of water equal to 700,000 gallons free of charge.

14. The Company shall at all times pay to the grantors or their successors in title and their tenants full compensation for all damage which may from time to time be caused to them respectively by reason of the execution of the works aforesaid such compensation in default of agreement to be determined by arbitration.

15. The grantors will not during their respective lives and so far as possible to bind their successors in title agree that they will not grant permission to any public or private body or company to tunnel under or otherwise take water from the Quex Park Estate or any part thereof and will not oppose any application by the Company for further statutory powers by way of special Act of Parliament or Provisional Order so as to include within their district so much of the Quex Park Estate as is now outside the limits of such district or any part thereof.

16. The Quex Park Estate for all purposes of this agreement shall be deemed to include all lands within the parishes of Birchington and Acol which are not included within the area of any other water company which now are or shall at any time hereafter become limited to the uses for the time being of the family settlement of Quex Park aforesaid under which the said Percy Horace Gordon Powell-Cotton is now tenant for life in possession thereof.

17. The Company shall pay to the grantors all their costs charges and expenses as between solicitor and client including surveyors' fees of or incidental to the negotiation for and preparation and execution of these presents or the carrying into effect of the provisions hereof.

A.D. 1900.

18. The expression "the grantors" as used in these presents includes (wherever the context admits) each of them the said Percy Horace Gordon Powell-Cotton and Gerald McLeod Powell-Cotton and their successors in title under or by virtue of the said settlement.

19. The expression "the Company" as used in these presents includes the Westgate and Birchington Waterworks Company and their assigns.

20. This agreement shall if Parliament think fit be scheduled to and confirmed by the Westgate and Birchington Water Bill now before Parliament and is made subject to such alterations as Parliament may think fit to make therein but if Parliament make any material alteration therein it shall be competent to any party thereto to withdraw the same.

In witness whereof the grantors have hereunto set their hands and seals and the common seal of the Company has been hereunto affixed the day and year first above written]

Signed sealed and delivered by  
the above-named Percy  
Horace Gordon Powell-Cotton  
by Gerald McLeod Powell-  
Cotton his attorney duly  
appointed by deed poll dated  
6th November 1899 in the  
presence of

P. H. G. POWELL-COTTON

by his attorney

GERALD MCLEOD POWELL-  
COTTON.

L.S.

M. C. POWELL-COTTON;

29 Cornwall Gardens

S.W.

Signed sealed and delivered by  
the above-named Gerald  
McLeod Powell-Cotton in the  
presence of

GERALD MCLEOD POWELL-  
COTTON.

L.S.

M. C. POWELL-COTTON

29 Cornwall Gardens

S.W.

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