CHAPTER lxxv.

An Act to confer further powers on the Falmouth Waterworks Company and for other purposes. A.D. 1930.

[4th June 1930.]

WHEREAS the Falmouth Waterworks Company (hereinafter called "the Company") are by the Falmouth Water Acts 1862 to 1928 authorised to construct and maintain waterworks and to supply water within the boroughs of Falmouth and Penryn and the parishes of Budock Rural Mylor and St. Gluvias in the rural district of East Kerrier in the county of Cornwall:

And whereas the whole of the share capital which the Company have been authorised by the said Acts to raise has been issued and fully paid up and now consists of—

Ten thousand pounds ten per cent. ordinary stock;

Thirty-four thousand pounds six per cent. ordinary stock;

Forty-two thousand nine hundred and ninety-four pounds five per cent. preference stock:

And whereas by the said Acts the Company have been authorised to borrow on mortgage or by the issue of debenture stock the total sum of forty-one thousand five hundred pounds and in exercise of that power the Company have issued eight thousand seven hundred and fifty pounds four per cent. debenture stock and

A.D. 1930. twenty thousand pounds five per cent. redeemable debenture stock:

And whereas the demands for water within the Company's limits of supply have increased and are increasing and it is expedient for the purpose of enabling the Company to meet those demands to authorise them to construct the works in this Act mentioned and to raise additional capital:

And whereas it is expedient that further powers be conferred on the Company as by this Act provided and that the other provisions of this Act be enacted:

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

And whereas plans and sections showing the lines and levels of the works authorised by this Act and a book of reference to the plans 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 Cornwall and are hereinafter respectively referred to as the deposited plans sections and book of reference:

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

Short and collective titles.

1.—(1) This Act may be cited as the Falmouth Water Act 1930.

(2) The Falmouth Water Acts 1862 to 1928 and this Act may be cited together as the Falmouth Water Acts 1862 to 1930.

Incorporation of Acts.

2. The following Acts and parts of Acts (so far as applicable for the purposes of this Act and not inconsistent with the provisions of the existing Acts or this Act) are hereby incorporated with this Act (namely):—

The Companies Clauses Consolidation Act 1845 except the provisions thereof with respect to the conversion of borrowed money into capital;

The Companies Clauses Act 1863 as amended by subsequent Acts except Part IV; A.D. 1930.

The Lands Clauses Acts;

The Waterworks Clauses Acts 1847 to 1863 except the words in section 44 of the Waterworks Clauses Act 1847 "with the consent in writing "of the owner or reputed owner of any such "house or of the agent of such owner" and except sections 76 to 79 of that Act.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction And unless the context otherwise requires—

"The Company" means the Falmouth Waterworks Company;

"The existing Acts" means the Falmouth Water Acts 1862 to 1928;

"The limits of supply" means the limits within which the Company are for the time being authorised to supply water;

"The undertaking" means the undertaking of the Company as from time to time authorised;

"The new works" means the works described in section 4 (Power to construct new works) of this Act;

"The Anter brook" means the brook now flowing past Argal Mill into the reservoir of the Company known as the No. 4 reservoir;

"The Ordnance map" means the Ordnance map on the scale of 1/2500 and references to sheets of the Ordnance map are to the relative sheets for Cornwall second edition 1907;

"The tribunal" means the jury arbitrators or other body to whom any question of disputed purchase money or compensation under this Act is referred;

"The county council" means the county council for the administrative county of Cornwall.

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Works and Lands.

Power to construct new works.

4. Subject to the provisions of this Act the Company may in the lines situations and levels and on or under the lands delineated on the deposited plans and sections and described in the deposited book of reference make and maintain the following works in the rural district of East Kerrier in the county of Cornwall :—

Work No. 1 An impounding reservoir (to be called and in this Act referred to as "the Argal reservoir") to be formed by means of a dam across the Anter brook commencing in the parish of Mabe on or near the easterly boundary of the enclosure numbered 824 on sheet LXXI. 10 of the Ordnance map and terminating in the parish of Budock Rural in the enclosure numbered 170 on the same sheet of the Ordnance map;

Work No. 2 A new road (being a diversion of the existing public road leading from Trenoweth Village to Tresooth) commencing in the said parish of Mabe by a junction with the said existing road at a point about fifty yards north of Vale Antron and terminating in the said parish of Budock Rural by a junction with the said existing road at a point about one hundred and ten yards northwards of the entrance to Little Argal Farm;

Work No. 3 An aqueduct (consisting of a conduit or line or lines of pipes) in the said parish of Budock Rural commencing at the dam of the Argal reservoir and terminating at or near the north-eastern boundary of the enclosure numbered 164 on sheet LXXI. 10 of the Ordnance map;

Work No. 4 An aqueduct (consisting of a conduit or line or lines of pipes) in the said parish of Budock Rural commencing by a junction with the aqueduct (Work No. 3) by this Act authorised at its termination and terminating by a junction with the existing line of pipes of the Company at the southern end of the embankment between the reservoirs of the Company known as the No. 2 and No. 3 reservoirs.

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Subsidiary works.

5. In addition to the new works the Company may on or under the lands delineated on the deposited plans and described in the deposited book of reference make and maintain all such buildings machinery works and apparatus of whatever character as may be necessary or convenient in connection with or subsidiary to the new works or any of them:

Provided that—

(*a*) nothing in this section shall exonerate the Company from any action indictment or other proceeding for nuisance if any nuisance be caused or permitted by them; and

(*b*) any electrical apparatus shall be so made maintained and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

Limits of deviation.

6. In the construction of the new works the Company may deviate to any extent within the limits of deviation shown on the deposited plans and also vertically from the levels shown on the deposited sections downwards to any extent and upwards to any extent not exceeding ten feet Provided that the Company shall not construct the dam of the Argal reservoir of a greater height above the general surface of the ground than that shown on the deposited sections and ten feet in addition.

Period for completion of works.

7. If the new works are not completed before the thirty-first day of December nineteen hundred and thirty-six then as from that date the powers by this Act granted to the Company for executing those works or in relation thereto respectively shall cease except as to so much thereof as is then completed Provided that subject to the restrictions and provisions of this Act the Company may at any time after the expiration of the said date within the limits of deviation shown on the deposited plans alter enlarge and renew any of the new works as they may think expedient to provide for the requirements of the undertaking.

Power to take waters.

8. The Company may by means of the new works and the other works authorised by this Act collect

A.D. 1930. divert impound take use appropriate pump and distribute for the purposes of the undertaking all the waters of the Anter brook and all such other streams springs and waters as will or can be intercepted by the aforesaid works or any of them.

Power to take lands.

9. Subject to the provisions and for the purposes of this Act the Company may enter upon take and use all or any of the lands delineated on the deposited plans and described in the deposited book of reference.

Period for compulsory purchase of lands.

10. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease on the thirtieth day of September nineteen hundred and thirty-three.

Additional lands.

11. Section 13 (Additional lands) of the Act of 1928 shall have effect as if "one hundred acres" and "twenty acres" were respectively substituted in the proviso to subsection (1) of that section for "sixty acres" and "five acres."

In calculating the quantity of lands which may be held by the Company under that section 13 as so amended any land acquired by the Company under the section of this Act of which the marginal note is "Power to take lands" shall not be included.

Application of sections of Act of 1928 relating to lands.

12. The following sections of the Act of 1928 shall so far as applicable extend and apply to any lands acquired or authorised to be acquired by the Company under this Act and to the Company in respect thereof in as full and complete a manner as if those sections were re-enacted in this Act with any necessary modifications (that is to say):—

Section 10 (Power to acquire easements);

Section 11 (Persons under disability may grant easements &c.);

Section 15 (Retention and disposal of lands).

Agreements as to drainage of lands &c.

13.—(1) The Company may make and carry into effect agreements with the owners lessees or occupiers of any lands within the drainage area of the reservoirs and works authorised by the existing Acts and this Act with reference to the execution by the Company or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and

preserving the purity of the waters by the existing Acts and this Act authorised to be diverted collected and appropriated by the Company flowing to upon or from such lands directly or derivatively into those reservoirs and works or any of them.

(2) Section 14 (Power to agree as to drainage of lands &c.) of the Act of 1928 is hereby repealed.

Stopping up of roads and footpaths.

14.—(1) The Company may stop up—

(*a*) so much of the public road leading from Trenoweth to Tresooth as lies between the commencement and termination of the new road (Work No. 2) authorised by this Act; and

(*b*) so much of the road in the parish of Budock Rural leading from Argal Farm to Little Argal Farm as lies between a point about eighty yards southwards from the westernmost corner of the property numbered 172 on sheet LXXI. 10 of the Ordnance map and the junction of that road with the said public road leading from Trenoweth Village to Tresooth :

Provided that such stopping up shall not take place until the said new road has been completed to the reasonable satisfaction of the county council and is open for public use or in case of difference between the Company and the county council until two justices acting for and residing in the county of Cornwall shall have certified that the new road has been completed to their satisfaction and is open for public use Provided also that before applying to the justices for their certificate the Company shall give to the county council fourteen days' notice of their intention to apply for it.

As from the completion of the said new road to the satisfaction of the county council or as from the date of the said certificate all rights of way over or along the said portions of existing roads shall be extinguished and the new road shall be maintained in repair by and at the expense of the county council.

(2) All public rights of way over so much of any other highways (whether roads or footpaths) as will be submerged by the construction of the Argal reservoir shall as from the commencement of the filling of that reservoir be also extinguished.

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(3) The Company may subject to the provisions of the Waterworks Clauses Act 1847 with respect to mines appropriate and use for the purposes of the undertaking the sites of any portions of roads and footpaths stopped up under the provisions of this section.

Extinction of private rights of way.

15. All private rights of way over any lands which the Company are authorised by this Act to acquire compulsorily shall as from the date of the acquisition of such lands by the Company be extinguished Provided that the Company shall make full compensation to all persons interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Entry on property for survey and valuation.

16. The Company and their surveyors officers contractors and workmen may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands and premises by this Act authorised to be taken compulsorily or any of them for the purpose of surveying and valuing the said lands and premises without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands and premises.

Compensation in case of recently altered buildings &c.

17. In settling any question of disputed purchase money or compensation for lands acquired by the Company under the powers of this Act the tribunal shall not award any sum of money for or in respect of any improvement or alteration made or any building erected after the fifteenth day of November nineteen hundred and twenty-nine if in the opinion of the tribunal the improvement alteration or building in respect of which the claim is made was made with a view to obtaining or increasing compensation nor in the case of any estate or interest in the lands created after the said date which in the opinion of the tribunal was created with a view to obtaining or increasing compensation shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition by the Company of such lands.

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Costs of arbitration.

18. The tribunal to whom any question of disputed purchase money or compensation under this Act is referred shall if so required by the Company award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Company by the claimant giving sufficient particulars and in sufficient time to enable the Company to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Company have been prejudiced thereby the tribunal shall have power to decide whether the claimant's costs or any part thereof shall be borne by the claimant:

Provided that it shall be lawful for any judge of the High Court to permit any claimant after seven days' notice to the Company to amend the statement in writing of the claim delivered by him to the Company in case of discovery of any error or mistake therein or for any other reasonable cause (such error mistake or cause to be established to the satisfaction of the judge after hearing the Company if they object to the amendment) and such amendment shall be subject to such terms enabling the Company to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to such judge may seem just and proper under all the circumstances:

Provided also that this section shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation Act 1845 either contained or was endorsed with a notice to the effect of this section.

For protection of Ecclesiastical Commissioners.

19. For the protection of the Ecclesiastical Commissioners (in this section referred to as "the commissioners" which expression shall include their successors in title and assigns) the following provisions shall unless otherwise agreed in writing between the Company and the commissioners have effect:—

(1) The Company shall after the commencement of the construction of the Argal reservoir if and when so required by the commissioners provide at their own expense for the use of the commissioners such number (not exceeding eleven) of water troughs as the commissioners may reasonably require in the fields belonging to

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the commissioners which are at the commencement of this Act accessible to the waters in the College River and the two leats below the reservoir of the Company known as the reservoir No. 1 The said troughs shall be erected in such positions in the said fields as may be agreed between the Company and the commissioners or failing agreement be settled by arbitration :

(2) The said troughs shall be constructed of concrete and fitted with ball valves and stop-cocks :

(3) The said troughs shall be of sufficient size to serve two fields where necessary and subject thereto shall be of such dimensions as shall be agreed between the Company and the commissioners or failing agreement be settled by arbitration :

(4) The Company shall provide and lay at their own expense such pipes as may be necessary for the supply of water to the said troughs :

(5) The pipes troughs and fittings to be provided by the Company under this section shall be maintained by the Company at their own expense to the reasonable satisfaction of the commissioners :

(6) The commissioners shall grant to the Company free of charge such easements and facilities as may be necessary for erecting or laying and for inspecting maintaining and repairing the troughs and pipes and fittings to be provided by the Company as aforesaid :

(7) The Company shall unless prevented by frost unusual drought or other unavoidable cause or accident keep the said troughs supplied free of charge with such quantity of water (not exceeding in the aggregate during any day of twenty-four hours the quantity of fifteen hundred gallons for all the troughs) as the commissioners may from time to time require for watering cattle or other agricultural or horticultural purposes The commissioners shall also be entitled to use for the purposes aforesaid an additional quantity of water from the said troughs but shall pay

for the same at the current rates for the supply of water by the Company for similar purposes :

(8) If and when any works are erected upon the lands comprising the site of or used in connection with the commissioners' china stone mills or the said mills are reconstructed the Company shall when required by the commissioners supply those works or the reconstructed mills with water free of charge up to a maximum of five hundred gallons a day :

(9) The Company shall not be required to supply water to the commissioners under this section until the commencement of the first filling of the Argal reservoir :

(10) All matters which are referred to arbitration under this section shall be referred to a single arbitrator to be agreed upon or failing agreement to be appointed by the President of the Surveyors' Institute on the application of either the Company or the commissioners after notice in writing to the other of them and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference.

For protection of Elizabeth Tremayne.

20. For the protection of Elizabeth Tremayne her heirs executors administrators or assigns or other the owner or owners for the time being of Lamanver Farm in the parish of Budock Rural in the rural district of East Kerrier (in this section referred to as "the owner" and "the farm" respectively) the following provisions shall unless otherwise agreed in writing between the owner and the Company have effect :—

(1) If the Company shall acquire for the purposes of this Act any part of the farm they shall acquire the whole of the lands of the owner within the limits of deviation for the Argal reservoir as shown on the deposited plans other than the property numbered on the deposited plans 29 in the parish of Budock Rural and such portions of the properties respectively numbered on the deposited plans 30 and 33 in that parish as shall be reasonably necessary for the purpose of access by the owner and the tenants of the farm for the watering of cattle at the pools to be provided by the Company

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under the provisions of subsection (2) hereof The portions of the said properties numbered 30 and 33 which shall not be acquired by the Company shall if not agreed between the Company and the owner be settled by arbitration :

(2) The Company before cutting off the present access of the owner to the Anter brook shall at their own expense and to the reasonable satisfaction of the owner and for the use of the owner and the tenants of the farm construct—

(*a*) a concrete-lined pool suitable for the watering of cattle near the eastern corner of the said property numbered 30 with the necessary channels and in such position that the stream on the north-eastern side of that property can be diverted into the pool;

(*b*) a concrete-lined pool suitable for the watering of cattle near the south-eastern part of the said property numbered 33 with the necessary channels and a hole in the bank or fence forming the south-western boundary of that property and in such position that the last-mentioned stream can be diverted into the pool :

(3) The said pools channels and hole aforesaid shall after the completion thereof by the Company be maintained by the owner at her expense :

(4) All hedges and fences of the owner which may be cut damaged or interfered with by the Company during the construction of the works by this Act authorised (other than the hedges and fences on the lands acquired by the Company) shall forthwith be replaced restored and made good by the Company to the reasonable satisfaction of the owner and the Company shall to the like satisfaction fence off the lands forming part of the farm acquired by the Company under this Act from the remaining land of the farm :

(5) Any difference which may arise between the Company and the owner with respect to any of the provisions of this section shall be referred to a single arbitrator who unless otherwise

agreed between the Company and the owner shall be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference. A.D. 1930.

For protection of William Charles Midlen.

21. For the protection of William Charles Midlen his heirs executors administrators or assigns or other the owner or the owners for the time being (in this section referred to as "the owner") of that part of Higher Spargo Farm in the parish of Mabe in the rural district of East Kerrier which is now the property of the said William Charles Midlen (which part of the said farm is in this section referred to as "the farm") the following provisions shall unless otherwise agreed in writing between the owner and the Company have effect:—

(1) If the Company shall acquire for the purposes of this Act any portion of the farm they shall acquire the whole of the lands of the owner within the limits of deviation for the Argal reservoir as shown on the deposited plans:

(2) The Company before cutting off the present access of the owner to the Anter brook shall at their own expense and to the reasonable satisfaction of the owner and for the use of the owner and his tenants—

(*a*) construct a concrete-lined pool or a trough suitable for the watering of cattle at or near the point of intersection of the enclosures respectively numbered 858 859 1057 and 1058 on sheet LXXI. 10 of the Ordnance map;

(*b*) lay a line of pipes of suitable diameter connecting the said pool or trough with some spring or well either on the land of the owner forming part of the farm and not acquired by the Company (hereinafter referred to as "the owner's remaining land") or on the land of the Company from which spring or well a supply of water can be obtained for the owner and his tenants sufficient for such farming purposes as those for which the

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present sources of water supply on the farm are now being used or (if there is no such spring or well available) with the Argal reservoir; and

(*c*) erect mechanically operated pumping plant of suitable modern type with the necessary housing therefor sufficient for enabling such supply of water to be pumped to the said pool or trough:

(3) Any dispute between the Company and the owner as to whether or not there is available a spring or well so sufficient as aforesaid shall be determined by arbitration in manner hereinafter provided:

(4) (*a*) Subject as aforesaid the position and size of the pool or trough and the route and diameter of the line of pipes shall if not agreed between the Company and the owner be determined by arbitration;

(*b*) The pumping plant shall be erected on the owner's remaining land or on the land of the Company as may be most convenient having regard to all circumstances and if the site for the pumping plant is not agreed between the Company and the owner it shall be determined by arbitration:

(5) The owner shall grant to the Company free of charge any necessary easement and facilities for constructing laying and erecting such pool or trough line of pipes and pumping plant so far as the same shall be situate on the owner's remaining land:

(6) The said pool or trough line of pipes and pumping plant when provided by the Company in accordance with the foregoing provisions of this section shall be maintained and the said pumping plant shall be worked by the owner at his own expense and the Company shall grant to the owner without payment therefor any necessary easement and facilities for enabling him to maintain repair and work so much (if any) of the line of pipes and pumping plant as may be situate on the land of the Company:

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(7) If the said line of pipes is connected with the Argal reservoir the Company shall whenever necessary after the date when they shall cut off the present access of the owner to the Anter brook allow the owner to pump out of the Argal reservoir during any reasonable hours of the daytime such quantity of water as may be reasonably necessary for providing a supply of water in the said pool or trough sufficient for the purposes mentioned in paragraph (*b*) of subsection (2) hereof and the Company shall not require any payment from the owner for water so pumped:

(8) All hedges and fences of the owner which may be cut damaged or interfered with by the Company during the construction of the works by this Act authorised (other than the hedges and fences on the lands acquired by the Company) shall forthwith be replaced restored and made good by the Company to the reasonable satisfaction of the owner and the Company shall to the like satisfaction fence off the lands acquired by the Company from the owner under this Act from the owner's remaining land:

(9) Any difference which may arise between the Company and the owner with respect to any of the provisions of this section shall be referred to a single arbitrator who unless otherwise agreed between the Company and the owner shall be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference.

FINANCIAL PROVISIONS.

Additional capital.

22. Subject as after provided in this section the Company may from time to time after the first day of September nineteen hundred and thirty raise additional capital to such an amount as shall be sufficient to produce after taking into account premiums or discounts (if any) which may be obtained or allowed on the issue thereof the sum of eighty thousand pounds by the creation and

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issue of ordinary stock and preference stock or by either of those modes Provided that—

(*a*) the nominal amount of any preference stock to be created and issued under this section shall not exceed forty thousand pounds;

(*b*) this section shall not come into force until the said first day of September and if before that date the Bill promoted in Parliament in the present session and intituled "A Bill to provide "for the transfer of the undertaking and powers "of the Falmouth Waterworks Company to the "mayor aldermen and burgesses of the borough "of Falmouth to authorise the said mayor "aldermen and burgesses to supply water in "and in the neighbourhood of their borough "and for other purposes" shall be passed into law (with or without amendments) then this section shall not come into force;

(*c*) the stamp duty chargeable in respect of an authorised increase in the capital of the Company shall only become chargeable in the event of this section coming into force and accordingly the time allowed under the statutory provisions for delivery by the Company to the Commissioners of Inland Revenue of a statement of the amount of the said authorised increase in the capital of the Company and for payment of ad valorem stamp duty with which such statement is to be charged shall be and is hereby extended to one month after this section comes into force in lieu of one month after the passing of this Act and if such section does not come into force no such statement need be delivered and no such duty shall be chargeable.

Ranking of ordinary stock.

23. The ordinary stock of the Company existing at the passing of this Act and subject to a maximum rate of dividend of six per centum per annum and all ordinary stock to be issued under the powers of this Act shall for all purposes form one and the same class of ordinary stock.

Dividends.

24. The profits of the Company to be divided in respect of any year among the holders of ordinary stock and preference stock forming part of the additional

capital authorised by this Act shall not exceed the following rates (namely):—

On any such preference stock such rate (not exceeding the rate of six per centum per annum) as shall be specified in the resolution creating the stock;

On any such ordinary stock the rate of six per centum per annum;

unless with respect to any such ordinary stock a larger dividend be at any time necessary to make up the deficiency of any previous dividend in respect of any year or half-year which shall have fallen short of the said rate of six per centum per annum.

Power to borrow.

25. The Company may raise by borrowing on mortgage of the undertaking any sum or sums not exceeding in the whole one-half of the amount actually received by the Company (including premiums) on any ordinary and preference stock forming part of the additional capital which at the time of borrowing has been issued under the powers of this Act But no sum shall be borrowed in respect of any capital so issued until the Company have proved to a justice of the peace before he gives his certificate under the fortieth section of the Companies Clauses Consolidation Act 1845 that the whole amount payable on the stock with respect to which the borrowing powers are exercised and of the premiums (if any) realised on the sale thereof has been paid.

Amendment of section 44 of Act of 1928.

26. Section 44 (New stock to be sold by auction or tender) of the Act of 1928 shall have effect as if the words "the Ministry of Health" were substituted for the words "the Board of Trade" in both places where the latter words occur.

Application of sections of Act of 1928.

27. The following sections of the Act of 1928 shall extend and apply to any ordinary or preference or debenture stock or mortgages created issued or granted under the powers of this Act and to any moneys raised thereby as though those sections with any necessary modifications were re-enacted in this Act (that is to say):—

Section 42 (Dividend on different classes of stock);

Section 44 (New stock to be sold by auction or tender) as amended by this Act;

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Section 46 (Debenture stock);
Section 47 (Appointment of receiver);
Section 48 (Priority of mortgages over other debts);
Section 50 (Minimum amounts of holdings and transfers of stock);
Section 51 (Receipt in case of persons not sui juris);
Section 52 (Application of moneys).

Provisions as to issue of additional capital.

28.—(1) Notwithstanding the application of section 44 (New stock to be sold by auction or tender) of the Act of 1928 as amended by this Act to ordinary and preference stock issued under the powers of this Act it shall be lawful for the Company with the consent of the Ministry of Health and subject to such conditions as the Ministry may think fit to impose to offer for subscription by the public any ordinary or preference stock forming part of the additional capital authorised by this Act and on any such offer to pay a commission not exceeding two and a half per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such stock or procuring or agreeing to procure subscriptions whether absolute or conditional for any such stock:

Provided that—

(i) the payment of the commission and the amount or rate per centum of the commission paid or agreed to be paid shall be disclosed in every prospectus advertisement or other document of the Company inviting subscriptions for such stock; and

(ii) any stock so offered as aforesaid shall be issued at as near as may be and in no case more than five per centum below the value of the stock at the date of offer.

(2) For the purposes of proviso (ii) of the preceding subsection the value of any stock at the date of the offer thereof for subscription shall be deemed to be the average price at which according to the Company's books sales of stock of the same class were effected within the period of six months immediately preceding that date or if there has been only one sale or no sale of such

stock during such period then the price at which the last sale of such stock was effected making due allowance for any probable change in value since that date due to the accrual or payment of dividend or any other cause. A.D. 1930.

(3) Nothing in this section shall affect any power of the Company to pay brokerage.

Redeemable preference stock or debenture stock.

29.—(1) The directors may from time to time by virtue of this Act and without further or other sanction or authority issue so as to be redeemable at such times and in such manner and on and subject to such terms and conditions and to bear dividends or interest at such rate or rates as the directors at the time of the issue thereof determine any preference stock or debenture stock (both of which are in this section referred to as and included in the expression "stock") created or hereafter to be created by the Company under the powers conferred by the existing Acts or this Act.

(2) There shall be stated on each certificate of any such stock the time or times at which and the manner in which and the terms and conditions on and subject to which such stock is to be redeemed.

(3) If it is so provided in the said terms and conditions the Company may—

(*a*) call in and pay off the stock or any part thereof at any time before the date fixed for redemption; and

(*b*) redeem the stock or any part thereof either by paying off the stock or by issuing to the holder of any stock subject to his consent other stock in substitution therefor.

(4) For the purpose of providing money for paying off the stock or for the purpose of providing substituted stock the Company may create and the directors may issue other stock (either redeemable or irredeemable) or the directors may re-issue any stock originally created and issued as aforesaid Provided that the creation and issue under the powers of this subsection of stock or of any particular class of stock does not make the total nominal amount of such stock or of stock of that class exceed the amount of such stock or of stock of that class which the Company are for the time being authorised

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to create and issue except during the necessary interval between the creation and issue of the new stock and the redemption of the old stock.

(5) The Company shall not redeem out of revenue any redeemable stock issued under the powers of this section except to the extent of any discount allowed on the issue or any premium payable on the redemption of any such stock.

(6) Subsections (3) (4) and (5) of this section shall apply to the redeemable debenture stock created and issued before the passing of this Act under section 49 (Issue of redeemable preference capital and debenture stock) of the Act of 1928 as though that stock had been issued under the powers of this section.

(7) The said section 49 of the Act of 1928 is hereby repealed.

As to redeemed capital.

30. For the purpose of determining the amount which may from time to time be raised by the Company by the creation and issue of ordinary or preference or debenture stock or by mortgage of the undertaking the redeemable debenture stock created and issued before the passing of this Act under section 49 (Issue of redeemable preference capital and debenture stock) of the Act of 1928 and any stock created and issued after the passing of this Act in pursuance of the immediately preceding section of this Act shall after the redemption thereof be deemed not to have been created and issued.

MISCELLANEOUS.

Rates and charges.

31. The Act of 1928 shall after the twenty-fifth day of March nineteen hundred and thirty-two be read and have effect as if—

(i) the words "fifteen per centum" were inserted in subsection (2) (ii) of section 31 (Rates for domestic purposes) of that Act in substitution for the words "eleven per centum"; and

(ii) the words "three shillings" were inserted in section 35 (Price of water supplied by meter) of that Act in substitution for the words "two shillings and sixpence."

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As to register of meters.

32.—(1) Where water is supplied by measure the register of the meter or other instrument for measuring water shall be prima facie evidence of the quantity of water consumed Provided that if the Company and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined on the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid and the decision of the court shall be final and binding on all parties.

(2) If any meter used by a consumer of water be proved to register erroneously such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter The amount of the allowance to be made to or of the surcharge to be made upon the consumer by the Company shall be paid by or to the Company to or by the consumer as the case may be and if a surcharge shall be recoverable in the like manner as rates for water are recoverable by the Company.

Extension of power to inspect premises.

33. In addition to any existing powers of entry upon and inspection of premises any duly authorised officer of the Company may at all reasonable times between the hour of seven o'clock and the hour of nine o'clock in the morning and between the hour of four o'clock in the afternoon and one hour after sunset enter into any house or premises supplied with water by the Company in order to examine if there be any waste or misuse of such water and if any person hinder any such officer from entering or making such examination as aforesaid he shall for every such offence be liable to a penalty not exceeding five pounds.

Company to connect communication pipes with mains.

34. Notwithstanding anything in any Act relating to the Company the Company shall have the exclusive right of executing any works on any of the water mains of the Company for connecting any communication pipe therewith and the Company shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the Company execute on any such main any work which shall be necessary to connect the communication or service pipe of such owner or occupier

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therewith and any expenses incurred by the Company in so doing shall be repaid by the owner or occupier so requesting and shall be recoverable as a civil debt.

Supplies to caravans &c.

35.—(1) Notwithstanding anything in any Act relating to the Company a person shall not be entitled to demand or continue to receive from the Company a supply of water to any caravan shack hut tent or other like structure unless he has agreed with the Company to take a supply of water by meter and to pay to the Company such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges incurred by them in order to meet the possible maximum demand for his caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him and unless he has secured to the reasonable satisfaction of the Company by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his caravan shack hut tent or structure.

(2) The sum to be so paid and the security to be so given shall be determined in default of agreement by a court of summary jurisdiction 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.

(3) Notwithstanding anything in this section or any other provisions of or incorporated with the existing Acts or this Act the Company shall not (unless required so to do by the Minister of Health) supply water to any caravan shack hut tent or other like structure if the local authority for the borough or district in which the structure is situated objects to the supply being given.

Recovery of penalties &c.

36. Save as otherwise by this Act expressly provided all offences against this Act and all penalties forfeitures costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

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Recovery of demands.

37. Proceedings for the recovery of any demand made under the authority of this Act or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter Provided that the demand does not exceed the amount recoverable in that court in a personal action.

Costs of Act.

38. 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 and may in whole or in part be charged against revenue.

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