CHAPTER xiv.

An Act to empower the Portsmouth Water Company to construct further works and to raise additional capital to confer additional powers upon the Company and for other purposes. [22nd July 1941.]

WHEREAS by the Borough of Portsmouth Waterworks Act 1857 the Portsmouth Water Company (hereinafter referred to as "the Company") were incorporated by the name of the Borough of Portsmouth Waterworks Company and were authorised to supply water within the limits therein described: 20 & 21 Vict. c. xlv.

And whereas further powers in relation to their undertaking were conferred upon the Company by subsequent Acts and Orders and in pursuance thereof the Company are now supplying water within limits which comprise the city of Portsmouth and areas adjacent thereto in the county of Southampton:

And whereas it is expedient that the supplies of water at present available to the Company should be increased and that the Company should be empowered to make and maintain the new works in this Act mentioned:

And whereas the County of Southampton Review Order 1932 and the Bournemouth and Portsmouth Order 1932 made by the Minister of Health in pursuance of section 46 of the Local Government Act 1929 altered various local government areas in the county of Southampton and it is expedient that the limits for the supply of water by the Company should be re-defined: 19 & 20 Geo. 5. c. 17.

And whereas it is expedient that service pipes and apparatus together with the liability for the maintenance repair and

renewal thereof should to the extent mentioned in this Act be transferred to the Company:

And whereas a statement of the authorised share and loan capital of the Company is set forth in the First Schedule to this Act and it is expedient that the Company should be empowered to raise further moneys for the purposes of this Act and for the general purposes of their undertaking:

And whereas it is expedient that such further provisions should be made with respect to the Company and their undertaking as are in this Act contained:

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

And whereas plans and sections of the works authorised by this Act showing the lines and levels thereof 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 town clerk of the city of Portsmouth and with the clerk of the county council of Southampton and those plans sections and book of reference are in this Act 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:—

PART I.

PRELIMINARY.

Short and collective titles.

1. This Act may be cited as the Portsmouth Water Act 1941 and the Portsmouth Water Acts and Orders 1857 to 1930 and this Act may be cited together and are in this Act referred to as the Portsmouth Water Acts and Orders 1857 to 1941.

Division of Act into Parts.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.
Part II.—Works.
Part III.—Lands.
Part IV.—Supply of water.
Part V.—Service pipes.
Part VI.—Finance.
Part VII.—Protective provisions.
Part VIII.—Administrative and miscellaneous.

PART I. —*cont.*

Incorporation of general Acts.

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

(*a*) The Lands Clauses Acts Provided always that any question of disputed compensation under this Act or any Act incorporated herewith (other than a question required to be determined by two justices) shall be determined by a single arbitrator to be agreed upon between the Company and the person claiming the compensation or in default of such agreement appointed by the Minister of Health on the application of either party;

(*b*) The Companies Clauses Consolidation Act 1845 (except the provisions relating to the conversion of borrowed money into capital) and Part I (relating to cancellation and surrender of shares) Part II (relating to additional capital) except the provisions thereof which limit the rate of dividend on preference capital and Part III (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts; 8 & 9 Vict. c. 16. 26 & 27 Vict. c. 118.

(*c*) The Waterworks Clauses Act 1847 (except the words "with the consent in writing of the owner or reputed "owner of any such house or of the agent of such "owner" in section 44); 10 & 11 Vict. c. 17.

(*d*) The Waterworks Clauses Act 1863. 26 & 27 Vict. c. 93.

(2) Sections 127 to 132 of the Lands Clauses Consolidation Act 1845 relating to the sale of superfluous lands shall not apply to any land which is now vested in the Company or is hereafter acquired by them. 8 & 9 Vict. c. 18.

Interpretation.

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

"The Company" means the Portsmouth Water Company;

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

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

"The directors" means the directors of the Company;

PART I. —*cont.*

20 & 21 Geo. 5. c. lxvii.

" The Act of 1930 " means the Portsmouth Water Act 1930;

" Share capital " includes stock not being debenture stock;

" House " means a dwelling-house whether a private dwelling-house or not and includes any part of a building if that part is occupied as a separate dwelling-house;

" Street " means—

(*a*) any road square court alley highway lane thoroughfare or passage; or

(*b*) any place laid out for any such purpose;

(whether the same be or be not dedicated to public use);

" Owner " means the person for the time being receiving the rack rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or who would so receive the same if those premises were let at a rack rent;

" The Minister " means the Minister of Health; and

" The Gosport Company " means the Gosport Waterworks Company.

PART II.

WORKS.

Power to construct waterworks.

5. Subject to the provisions of this Act the Company may in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections make and maintain the following works in the county of Southampton (that is to say):—

Work No. 1 A well and pumping station (to be called " the Worlds End pumping station ") in the parish of Denmead in the rural district of Droxford in the enclosure numbered in the parish of Hambledon 1241 on the 1/2500 Ordnance map Hampshire sheet LXVII.11 (edition of 1900);

Work No. 2 A line or lines of pipes commencing in the said parish of Denmead at or in the Worlds End pumping station (Work No. 1) hereinbefore described passing thence through the parish of Southwick and Widley in the said rural district of Droxford and terminating at or in the reservoir or reservoirs (Work No. 3) hereinafter described;

PART II. —*cont.*

Work No. 3 A service reservoir or reservoirs on Portsdown in the city of Portsmouth in the enclosure numbered in that city 623 on the 1/2500 Ordnance map Hampshire sheet LXXVI.5 (revision of 1937);

Work No. 4 A line or lines of pipes in the said city of Portsmouth commencing at or in the reservoir or reservoirs (Work No. 3) hereinbefore described and terminating by a junction with existing lines of pipes in Havant Road Cosham;

Work No. 5 A spring enclosure in the urban district of Havant and Waterloo situate at a point 270 yards or thereabouts west of St. Faith's Church Havant and 80 yards or thereabouts south of West Street Havant;

Work No. 6 A spring enclosure in the said urban district of Havant and Waterloo situate in the enclosures numbered in the urban district of Havant 185 and 187 on the 1/2500 Ordnance map Hampshire sheet LXXVI.11 (edition of 1932);

Work No. 7 A spring enclosure in the said urban district of Havant and Waterloo situate in the enclosure numbered in the said urban district of Havant 187 on the 1/2500 Ordnance map Hampshire sheet LXXVI.11 (edition of 1932);

Work No. 8 A spring enclosure in the said urban district of Havant and Waterloo situate in the enclosures numbered in the said urban district of Havant 187 and 188 on the 1/2500 Ordnance map Hampshire sheet LXXVI.11 (edition of 1932);

Work No. 9 A line or lines of pipes in the said urban district of Havant and Waterloo commencing at or in the spring enclosure (Work No. 7) hereinbefore described and terminating at or in the spring enclosure (Work No. 5) hereinbefore described;

Work No. 10 A line or lines of pipes in the said urban district of Havant and Waterloo commencing at or in the spring enclosure (Work No. 6) hereinbefore described and terminating at or in the spring enclosure (Work No. 8) hereinbefore described;

Work No. 11 A line or lines of pipes in the said urban district of Havant and Waterloo commencing at or in the spring enclosure (Work No. 5) hereinbefore described and terminating at or in the Havant works of the Company.

PART II. —*cont.*

Subsidiary works.

6. In addition to the works by this Act authorised the Company may upon in or under any lands delineated on the deposited plans make and maintain all such other wells shafts boreholes headings adits conduits pipes culverts overflows works for the treatment of water buildings machinery electric lines works and apparatus of whatever character as may be necessary or convenient in connection with or subsidiary to the before-mentioned works or any of them or the undertaking or necessary or expedient for augmenting or improving the supply of water but nothing in this section shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Limits of deviation.

7. In the construction of the works by this Act authorised the Company may deviate laterally to any extent not exceeding the limits of deviation shown in the deposited plans and where on any road no such limits are shown the boundaries of the road (including for this purpose any roadside waste forming part of or adjoining the road) shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent:

Provided that no part of the lines of pipes by this Act authorised shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections except for the purpose of crossing over a river stream canal dyke watercourse or railway or except for the purpose of crossing over any lands in cases where the consent of the owners of and of all other persons interested in such lands is obtained to the line or lines of pipes or any part or parts thereof being raised above the surface of the ground.

Works to form part of undertaking.

8. Subject to the provisions of this Act the works by this Act authorised shall for all purposes form part of and be comprised in the undertaking.

Period for completion of works.

9. If the Works Nos. 5 to 11 (inclusive) authorised by this Act are not completed on or before the first day of October one thousand nine hundred and forty-six or five years after the termination of the present war whichever is the later or if the Works Nos. 1 to 4 (inclusive) authorised by this Act are not completed on or before the first day of October one thousand nine hundred and fifty-one or ten years after the termination of the present war whichever is the later then as from those respective dates the powers by this Act granted for the making of the said works or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed:

PART II. —*cont.*

Provided that the Company may extend enlarge alter reconstruct renew or remove any of such works and in the case of the lines of pipes lay down additional lines of pipes as and when occasion may require.

Power to take waters.

10. Subject to the provisions of this Act the Company may pump collect impound take use divert and appropriate for the purposes of the undertaking all surface or underground streams springs and waters which will or may be taken or intercepted by means of any of the works by this Act authorised:

Provided that the Company shall allow to pass down the Havant Stream in the urban district of Havant and Waterloo a quantity of water equivalent to the amount of the natural flow from the springs known as Norman's Spring and Homewell Spring in the said urban district.

Limiting powers of Company to abstract water.

11. The Company shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this or some other Act of Parliament.

Diversion and stopping up of footpaths and occupation road.

12. The Company may divert in the manner shown on the deposited plans or in such other manner as the Company may with the approval of the local authority think fit the public footpaths and occupation road in the urban district of Havant and Waterloo crossing the lands numbered on the deposited plans 79 80 81 and 82 in that urban district and may stop up and cause to be discontinued as footpaths and occupation road the existing footpaths and occupation road or parts thereof crossing the said lands and thereupon all rights of way over or along the said existing footpaths and occupation road or parts thereof and across the said lands shall be extinguished and the Company may appropriate and use for the purposes of the undertaking the sites of the footpaths and occupation road stopped up so far as the same are bounded on both sides by lands of the Company:

Provided that such stopping up and discontinuance of the said footpaths shall not take place until two justices shall have certified that the new footpaths are open for public use.

Temporary stoppage of streets.

13.—(1) The Company during and for the purpose of the execution of the works by this Act authorised may temporarily stop up and divert and interfere with any street and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any house or building in the street from passing along and using the same.

PART II. —*cont.*

(2) The Company shall provide reasonable access for foot passengers bona fide going to or from any such house or building.

(3) The powers of this section shall not be exercised in reference to a trunk road without the consent of the Minister of War Transport.

Discharge of water into streams.

14.—(1) For the purpose of constructing enlarging extending repairing cleansing emptying examining using or operating any works forming part of the undertaking or any plant for the treatment of water the Company may cause the water in any such work or plant to be discharged into any available stream brook canal or feeder:

Provided that any water so discharged shall so far as may be reasonably practicable be free from mud or solid or offensive matter and other matter injurious to fish or spawn or spawning beds or food of fish and shall be discharged in such manner as not to cause the flooding of or injury to any highway.

(2) In the exercise of the powers conferred by this section the Company shall do as little damage as may be and shall make compensation to all persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers the amount of such compensation to be settled in case of difference by arbitration.

(3) The powers of this section shall not be exercised so as to damage or affect injuriously the railways or works of any railway company.

Byelaws for preventing pollution of water.

15.—(1) The Company may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to take for the purposes of any of their waterworks and may by such byelaws prohibit or regulate the doing of any act specified in the byelaws within the area or areas in which the byelaws are in force.

(2) Byelaws made under this section shall be in force within the area or areas defined in the byelaws.

(3) The Company may require either the owner or the occupier of any premises within the area or areas in which the byelaws are in force to construct and keep in good repair such drains sewers cesspools and other works as they deem necessary for preventing pollution of their water and if he fails to comply with any such requirement he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

PART II. —*cont.*

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may within twenty-eight days after service on him of the requirement appeal to the Minister and the Minister if he thinks fit may after considering any representations made by the Company refer the appeal to be determined by arbitration or may himself modify or disallow the requirement.

(4) All byelaws made under this section shall be subject to the provisions contained in subsections (2) (3) (4) (6) (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and all penalties imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of penalties and those sections shall for the purposes of this section be construed as if the Company were a local authority within the meaning of those sections and the secretary were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister. 23 & 24 Geo. 5. c. 51.

(5) In addition to complying with the said requirements of section 250 of the Local Government Act 1933 the Company shall—

(*a*) send at least one month before application is made to the Minister for confirmation of byelaws made under this section a copy of the byelaws to the council of every county the local authority of every district and the catchment board of any catchment area any part of which is within the limits to be defined in the byelaws;

(*b*) publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation;

(*c*) exhibit during the said month in some conspicuous place in each borough urban district and rural parish any part of which is situate within the said limits a copy of the notice referred to in subsection (3) of section 250 of the said Act of 1933;

(*d*) at the request of any owner or occupier of land within the said limits furnish to him free of charge a copy of the byelaws before confirmation and a statement of the effect of this section and at the request of any other person interested furnish to him a copy of the said byelaws upon payment of a sum not exceeding one shilling.

(6) The Company shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under this section whose legal

PART II. —*cont.*

rights shall be injuriously affected by the restrictions imposed by such byelaws or who are required by subsection (3) of this section or by such byelaws to construct any works or to do any act or thing which could not lawfully be required by the local authority of the district in which such lands are situate otherwise than upon payment of compensation and such first-mentioned compensation shall be settled in default of agreement by arbitration and for the purposes of this subsection the expression " legal rights " shall include a user of land in respect of which the local authority might have taken proceedings under the Public Health Act 1936 or under their byelaws but have decided not to do so having regard to the character or situation of the land.

26 Geo. 5. & 1 Edw. 8. c. 49.

For protection of Company's springs and wells.

16.—(1) (*a*) It shall not be lawful without the express authority of Parliament for the owner or occupier of any land which is situate within a radius of two miles from the centre of the protected works to construct on any part of such land any new well or other work (or to enlarge any existing well or other work) for taking or intercepting underground water except with the consent in writing of the Company unless the water to be abstracted from such well or other work is required by such owner or occupier solely for domestic or agricultural purposes on premises belonging to or occupied by him or for the purpose of supplying solely for domestic purposes or for the purposes which are referred to in paragraph (i) of the definition of " agricultural purposes " which is contained in subsection (3) of this section the premises of any neighbouring owner or occupier to whom a supply is being afforded for those purposes by such first-mentioned owner or occupier at the passing of this Act nor except with the like consent to abstract or permit the abstraction for any purpose other than domestic or agricultural purposes of any water obtainable from any such new well or other work or from the enlargement of any such existing well or other work In giving any such consent the Company may attach thereto such conditions as they may think fit.

(*b*) Any such owner or occupier who is aggrieved by any refusal of the Company to give such consent as aforesaid or by any conditions attached by the Company to any such consent may within fourteen days after the refusal of such consent or the notification of such conditions (as the case may be) appeal to the Minister and on any such appeal the Minister may by order after considering any representations made by the Company either confirm the refusal to give such consent or the attachment of conditions thereto or may direct the Company to give such consent subject to such conditions (if any) as the Minister may specify and the Company shall comply with any such direction.

PART II. —*cont.*

(2) Any such owner or occupier to whom such consent shall have been refused (or to whom a consent shall have been given but subject to conditions which he is unwilling to accept) may by notice in writing require the Company to supply to him such quantity of water (if any) as he may require for use on such land for purposes other than domestic or agricultural purposes and subject to the provisions of this section the Company shall supply such owner or occupier with such quantity of water and shall construct any works necessary for conveying the water to the land of such owner or occupier:

Provided that—

(*a*) the Company shall not be obliged to commence or continue to give such supply to any owner or occupier if such supply or the rate at which the same is taken or required to be given would be likely to interfere with the sufficiency of the supply by the Company of water for domestic purposes within the limits of supply but before permanently cutting off any such supply on the ground that it would be likely to interfere with the supply by the Company of water for domestic purposes within the limits of supply the Company shall give to the owner or occupier to whom the supply is being afforded not less than twelve months' notice of their intention so to do and shall repay to such owner or occupier—

(i) any sum deposited with the Company by way of security in pursuance of proviso (*e*) to this subsection less any sum which may be owing by such owner or occupier to the Company;

(ii) such portion (if any) of any sum recovered by the Company in pursuance of proviso (*d*) to this subsection as may be agreed between the Company and such owner or occupier or (failing agreement) determined by arbitration to be fair under all the circumstances;

(*b*) the Company shall not be obliged to commence to give such supply to any owner or occupier if the said supply or the rate at which the same is required to be given would be likely to interfere with any supply of water for other than domestic purposes which was being given by the Company at the date of the notice in writing given by such owner or occupier;

(*c*) the Company shall not be obliged to give such supply to any owner or occupier if the quantity of water required to be so supplied would either alone or if added to the quantity of water required by other

PART II. —*cont.*

owners and occupiers under the provisions of this section exceed the available yield of the protected works as then constructed by the Company;

(*d*) the cost incurred by the Company in and in connection with the construction of any works necessary for conveying the water to the land of any owner or occupier shall—

(i) (if the internal diameter of the main or pipe does not exceed three inches) be borne by the Company; and

(ii) (if such internal diameter exceeds three inches) be repaid to the Company by such owner or occupier and before commencing the construction of any such works the Company may require such owner or occupier to give to the Company security for the payment to them of the amount of such cost;

(*e*) any owner or occupier supplied with water by the Company under the provisions of this section shall pay such price for each thousand gallons so required which the Company are under an obligation to supply and whether or not the same be actually taken by such owner or occupier and shall be subject to such terms and conditions in regard to such supply including terms as to the security to be given to the Company for the payment to them of all money which may become due and as to the period during which such owner or occupier shall be bound to take or pay for the supply as failing agreement may be determined by arbitration;

(*f*) the price to be determined as aforesaid shall not be less than sufficient to provide in each year of the supply a sum which will so far as can be estimated meet such proportion of the amounts hereinafter in this proviso mentioned as the quantity required to be supplied bears to the available yield of the protected works as then constructed by the Company.

The amounts hereinbefore referred to are—

(i) the amount of the expenses of and in connection with the working management and maintenance of the protected works and of any other works used for the treatment or storage of water supplied from the protected works and all other costs charges and expenses properly chargeable to revenue in respect of the protected works and other works as aforesaid; and

PART II. —*cont.*

(ii) the amount required to give a reasonable return on the money expended in and in connection with the construction of the protected works and other works as aforesaid and the protection thereof and of the water which can or may be intercepted and taken by means thereof against pollution nuisance encroachment or injury and the ensuring of the purity of the said water;

(*g*) for the purpose of giving any supply under the provisions of this section the Company may supply water beyond the limits of supply and carry out all such works within or beyond those limits as may be necessary and the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall subject to any necessary modification apply in relation to the laying down and placing of pipes and other works for affording any supply under the provisions of this section;

(*h*) except as otherwise expressly provided by this section any question arising under this section between the Company and any owner or ocupier shall be determined by arbitration;

(*i*) the Company shall not be under any liability for failure to supply water under the provisions of this section if such failure be due to frost drought or any other unavoidable cause or any accident.

(3) For the purposes of this section—

(*a*) " protected works " means respectively—

(i) the Worlds End pumping station; and

(ii) the Bedhampton and Havant works of the Company comprising the Bedhampton pumping station No. 1 the Bedhampton pumping station No. 2 the Havant pumping station and springs and works connected therewith;

(*b*) " centre of the protected works " means in relation to the Worlds End pumping station prior to construction the site thereof and in relation to the Bedhampton and Havant works of the Company the Bedhampton pumping station No. 1;

(*c*) " domestic purposes " includes all purposes incidental to the occupation of a dwelling-house and any garden park or grounds occupied in connection therewith;

(*d*) " agricultural purposes " includes—

(i) all purposes for which water is ordinarily used by an owner or occupier of lands in the

PART II. —*cont.*

carrying on of agricultural dairying and market gardening operations on such lands; and

(ii) industrial or manufacturing purposes with reference to the produce of lands which are situate within the radius referred to in subsection (1) of this section.

For protection of local sources of supply.

17.—(1) In this section—

" the authorised work " means the Worlds End pumping station;

" protected source " means any well borehole pond spring river or stream or part thereof respectively which is situate within a radius of two miles from the centre of the authorised work and is used at the passing of this Act as an effective source of supply;

" owner " includes lessee or occupier.

(2) If at any time after the completion of the authorised work it shall be proved by the owner of any protected source (in this section referred to as " the proving owner ") that the pumping by the Company at that work has caused a diminution or cesser of the supply of water in or from such protected source the Company shall upon the written request of the proving owner afford or procure to be afforded to him a supply of water equal to the amount of such diminution or the supply which shall have ceased (as proved) at such cost or rate (if any) as that the total cost to the proving owner of obtaining his full supply shall be the same after as before the construction of the authorised work and upon such other terms as may be agreed or failing agreement may be settled by arbitration.

(3) Notwithstanding anything in this section—

(*a*) the Company shall not be under any obligation to afford or procure to be afforded a supply of water for domestic purposes under this section in respect of any protected source the water from which is so polluted as to be or to be likely to be injurious or dangerous to health;

(*b*) the Company shall not be liable in respect of any claim made by the proving owner under this section if such owner shall have failed to afford to the Company and their officers servants and other representatives at all reasonable times after the passing of this Act access to the protected source in respect of which the claim is made and facilities for ascertaining particulars thereof and the level of the water therein;

PART II. —*cont.*

(*c*) the Company shall not be subject to the obligations of this section if prevented from supplying water thereunder in consequence of frost drought or other unavoidable cause or any accident.

(4) All mains pipes meters and fittings required for the purpose of supplying water to any proving owner in pursuance of this section shall be provided laid down and fixed and all such mains pipes and meters shall be maintained by and at the expense of the Company and the proving owner shall afford to the Company all reasonable or necessary facilities for these purposes but all such fittings which shall be placed or fixed upon the land or premises of any proving owner shall be repaired maintained and (when necessary) renewed and made good by such owner to the satisfaction of the Company.

(5) The Company may if they think fit in lieu of affording or procuring to be afforded a supply of water equal to the diminution of the supply or cesser of supply in any such protected source deepen such protected source or make such borings therein or headings therefrom as will increase the supply so as to make good the said diminution or cesser and the proving owner shall without making any charge therefor give to the Company access and every facility for carrying out such deepening borings or headings.

(6) The Company may if they think fit in lieu of affording or procuring to be afforded a supply of water equal to the diminution or the supply which shall have ceased as aforesaid make compensation in money to any such proving owner for such diminution or cesser of supply and they shall also make like compensation for any injury caused to such owner by the powers conferred by the last preceding subsection and the amount of such compensation shall be settled in case of difference by arbitration.

(7) For the purpose of affording a supply of water under this section the Company may supply water beyond the limits of supply and carry out all such works within or beyond such limits as may be necessary for that purpose.

(8) Any question which may arise between the Company and any proving owner as to the quantity time place or manner of the supply to be afforded or procured to be afforded by the Company in pursuance of this section and any other question dispute or difference which may arise between the Company and the proving owner under the foregoing provisions of this section shall be determined by arbitration.

PART II. —*cont.*

(9) The Company and the proving owner may enter into and fulfil agreements with reference to the supply of water by the Company to such owner or with reference to any matter referred to in this section and may by any such agreement alter or modify any of the provisions of this section so far as they relate to such owner.

PART III.

LANDS.

Power to acquire lands.

18. Subject to the provisions of this Act the Company may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purposes of the works by this Act authorised or otherwise for the purposes of the undertaking.

Acquisition of easements compulsorily.

19.—(1) The Company may in lieu of acquiring any lands for the purposes of the works by this Act authorised or otherwise for the purposes of the undertaking acquire such easements and rights in such lands as they may require for such purposes (including the making maintaining repairing inspecting cleansing managing using working and obtaining access to such works) and may give notice to treat in respect of such easements and rights describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such easements and rights as fully as if the same were lands within the meaning of those Acts except that no such easement or right shall be deemed part of a house or other building or manufactory within the meaning of section 92 of the Lands Clauses Consolidation Act 1845.

(2) As regards any lands in respect of which the Company have acquired easements or rights only under the provisions of this section the Company shall not be required or entitled to fence off or sever such lands from the adjoining lands but unless otherwise agreed the owners or occupiers for the time being shall subject to such easements and rights have the same rights of using and cultivating such lands at all times as if this Act had not been passed.

Period for compulsory purchase of lands.

20. 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 first day of October one thousand nine hundred and forty-one.

Correction of errors in deposited plans and book of reference.

21. If there is any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands

PART III. —*cont.*

in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof and if it appears to the justices that the omission or misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and if the lands are situate in a county borough such certificate or copy thereof shall be deposited with the town clerk and if the lands are situate in an administrative county such certificate or a copy thereof shall be deposited with the clerk of the county council and a duplicate thereof shall be deposited with the clerk of the council of the county district in which the lands are situate and if the lands are situate in a rural parish having a parish council also with the clerk of that council and such certificate or a copy and duplicate respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with the certificate.

Extinction of private rights of way.

22. 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.

Power to enter property for survey and valuation.

23. The Company and their surveyors officers and workmen and any person duly authorised in writing under the hand of the engineer of the Company 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 houses and buildings authorised by this Act to be taken and used or any of them for the purpose of surveying and valuing the said lands houses and buildings 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 houses and buildings.

Compensation in case of recently acquired interest.

24. For the purposes of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the arbitrator to whom any question of disputed compensation is referred shall not award any sum of

PART III. —*cont.*

money for or in respect of any improvement alteration or building made or for or in respect of any interest in the land created after the first day of November one thousand nine hundred and forty if in the opinion of such arbitrator the improvement alteration or building or the creation of the interest in respect of which the claim is made was not reasonably necessary and was made or created with a view to obtaining or increasing compensation under this Act.

Acquisition of lands by agreement.

25. In addition to any other lands acquired or held by the Company or which they are now authorised to acquire or hold the Company may by agreement purchase or take leases of and hold further lands for the purposes of the undertaking or any easement (not being an easement of water in which persons other than the grantors have an interest) in over or affecting any such lands but the quantity of lands held by the Company in pursuance of this section shall not at any time exceed one hundred acres:

Provided that the Company shall not create or permit any nuisance on any such lands nor erect any buildings thereon except such as are required for or are connected with or incident to the purposes of the undertaking.

Power to purchase lands already subject to easements.

26. Where under the powers of any Act or Order relating to them the Company have acquired or shall acquire any easement or right in under or through any lands for the construction of any pipe or other similar work the Company may at any time thereafter if they see fit purchase by agreement from the owner thereof the lands lying over under and alongside such pipe or other similar work.

Persons under disability may grant easements.

27. 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 rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

PART IV.

SUPPLY OF WATER.

Re-definition of limits of supply.

28. As on and from the date of the passing of this Act the limits of supply shall be and include the areas described in the Second Schedule to this Act.

PART IV. —*cont.*

Pressure.

29.—(1) The water supplied by the Company in the city of Portsmouth as constituted at the passing of this Act shall be constantly laid on under pressure but such pressure need not be greater than will cause the water in the Company's mains to reach—

(*a*) in the case of premises at ground levels fifty feet or less above Ordnance datum a height of seventy feet above the ground level of such premises;

(*b*) in the case of premises at ground levels more than fifty feet above Ordnance datum but less than two hundred feet above Ordnance datum a height of fifty feet above the ground level of such premises;

(*c*) in the case of premises at ground levels two hundred feet or more above Ordnance datum a height of thirty-five feet above the ground level of such premises.

(2) The water supplied by the Company within the limits of supply outside the city of Portsmouth as constituted at the passing of this Act shall be constantly laid on under pressure but such water need not at any time be delivered at a greater height than can be reached by gravitation from the reservoir or tank of the Company from which it is supplied.

Power to lay connecting mains.

30. For the purpose of conveying water from one part of the limits of supply to another part thereof the Company may exercise as regards any street outside the limits of supply the powers conferred upon them by the Waterworks Clauses Act 1847 with reference to the breaking up of streets for the purpose of laying pipes as if such street were within the limits of supply but nothing in this section shall authorise the Company to supply water beyond such limits.

Power to lay pipes &c. in certain private streets.

31.—(1) Notwithstanding the incorporation with any Act or Order relating to the Company of section 29 of the Waterworks Clauses Act 1847 that section shall not apply to the Company in relation to any street within the limits of supply which has been laid out and formed but not dedicated to public use.

(2) (*a*) If with respect to any such street the Company exercise the powers of section 28 of the said Act of 1847 otherwise than pursuant to section 13 (Power to lay pipes in private streets) of the Act of 1930 the Company shall make full compensation to any person who has sustained damage by reason of the exercise by the Company with respect to that street of any of those powers in relation to a matter as to which the person has not himself been in default.

(*b*) Any dispute arising under this subsection as to the fact of damage or as to the amount of compensation shall be determined by arbitration.

PART IV. —*cont.*

(*c*) Where an owner of land claims compensation under paragraph (*a*) of this subsection in respect of damage sustained by reason of the Company having laid a water main or pipe in any land belonging to him and forming the site of any such street the arbitrator determining the amount of the compensation shall determine also by what amount (if any) the value to the claimant of any land belonging to him has been enhanced by the laying of the water main or pipe and the Company shall be entitled to set off that amount against the amount of any compensation awarded.

Meters &c. in streets.

32. Subject to the provisions so far as applicable of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the Company may for the purpose of measuring the quantity of water supplied affix and maintain meters and other apparatus on the service pipes and mains of the Company and stop-cocks in the pipes supplying houses with water and may insert in the roads or footways (but as near as reasonably practicable to the boundary of the street) the necessary covers or boxes for giving access and protection thereto and may for that purpose temporarily stop up break up and interfere with streets sewers rails pipes wires and apparatus Provided that the Company shall not interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

41 & 42 Vict. c. 76.

As to supplies from trunk mains.

33.—(1) Notwithstanding anything in any enactment relating to the Company no person shall be entitled to demand a supply of water from a trunk main belonging to the Company.

(2) In this section the expression " trunk main " means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits or for the purpose of giving a supply of water in bulk to other undertakers.

Supplies to swimming baths and bathing pools.

34. Where a person who takes a supply of water for domestic purposes desires to use water for a swimming bath or bathing pool the Company may require that all water required for such swimming bath or bathing pool shall be taken by measure and paid for at the rates for the time being in force for the supply of water by measure.

As to supplies for domestic and other purposes.

35. Where a supply of water to any premises is or is to be used for domestic and other purposes the Company may by agreement with the occupier of such premises give such

PART IV. —*cont.*

supply by measure and the minimum quarterly charge (exclusive of meter rent) shall be one-fourth of the annual amount which would be payable according to the rate for the time being in force for a domestic supply to those premises.

Supply for other than domestic purposes and by measure.

36. The Company may supply water for other than domestic purposes on such terms and conditions as the Company think fit and may supply water by measure either for domestic or other purposes and the moneys payable for the supply of water under this section shall be recoverable in the same manner as water rates:

Provided that no person shall be entitled to a supply of water for other than domestic purposes if such supply would interfere with the sufficiency of the supply of water for domestic purposes:

Provided further that nothing in this section shall empower the Company to supply water by measure at a price exceeding except as respects any minimum payment the maximum price for the time being authorised for supplies by measure.

Minimum charge for supply by measure.

37. The Company may charge for a supply of water by measure a minimum quarterly sum not exceeding except as may be otherwise authorised ten shillings.

Supply of water where consumer has separate supply.

38.—(1) Notwithstanding anything in any enactment a person shall not be entitled to demand or continue to receive a supply of water from the Company for the purposes only of a stand-by supply for any premises (whether for the whole or any part of the requirements of such person at such premises) to which the Company are not bound to supply water otherwise than by measure and which have a separate supply of water unless he has agreed with the Company to pay to them such annual sum in addition to any charge for water supplied as will give them a reasonable return on the capital expenditure incurred by them in providing such stand-by supply and will cover other standing charges incurred by them in order to meet the possible maximum demand for those premises.

(2) Any question arising under this section—

(*a*) as to whether a supply of water is demanded or received for the purposes only of a stand-by supply; or

(*b*) as to whether any premises have a separate supply of water; or

(*c*) as to the amount of the said annual sum to be specified in the agreement;

shall in default of agreement be determined by arbitration.

PART IV. —*cont.*

Power to prohibit use of hose-pipe temporarily.

39.—(1) If the Company are of opinion that by reason of drought or other cause the water supply of the Company should be conserved the Company may prohibit as from such date as they may determine the drawing or user through any hose or moveable pipe of water supplied by them so far as such drawing or user is for the purpose of gardens or horses or washing vehicles or any outdoor washing purpose and such prohibition shall continue until withdrawn.

(2) The Company shall before the prohibition comes into force give public notice in two or more newspapers circulating within the limits of supply of the prohibition and of the date when it will come into force.

(3) Any person who shall after the date stated in the said notice fail to comply with the prohibition shall be liable to a penalty not exceeding five pounds and to a further penalty not exceeding forty shillings for each day on which such failure occurs after conviction therefor.

(4) The Company shall not make any charge for the use of a hose or moveable pipe in respect of any period during which the drawing or user of water by means thereof is prohibited as aforesaid if such prohibition is complied with in relation to such hose or moveable pipe and where any consumer has paid to the Company the charge for the use of any such hose or moveable pipe during the year or part of a year which includes the said period and complies with the said prohibition in relation to such hose or moveable pipe the Company shall repay to the consumer the proportion of such charge which is attributable to that period.

Amendment of section 9 of Act of 1921. 11 & 12 Geo. 5. c. x.

40. Section 9 (Rates leviable half-yearly) of the Borough of Portsmouth Waterworks Act 1921 shall be read and have effect as if the words " the first day of January and the first " day of July or the first day of April and the first day of " October " were substituted for the words " Christmas Day and Midsummer Day or at Lady Day and Michaelmas Day."

Adjustment of water rate where net annual value is altered. 15 & 16 Geo. 5. c. 90.

41.—(1) Where under section 37 of the Rating and Valuation Act 1925 an amendment is made in the valuation list for the time being in force the amendment shall for the purpose of calculating the amount due in respect of any water rate payable to the Company have effect retrospectively as from the date as from which under the said section it has effect for the purpose of calculating the amount due in respect of any general rate levied pursuant to section 2 of the said Act of 1925.

(2) If it is found that by reason of the foregoing provisions too much or too little has been paid in respect of any water rate the difference shall be repaid or allowed or (as the case

may be) shall be paid and may be recovered as if it were arrears of the water rate. PART IV. —*cont.*

Entry on premises for authorised cutting off.

42. Where in any case the Company are authorised to cut off the pipe supplying water to any premises or to turn off water from any premises any officer workman or duly authorised agent of the Company may after giving not less than twenty-four hours' notice in writing to the occupier of the premises or if the premises are unoccupied to the owner thereof at his last known place of abode or address enter the premises between the hours of nine in the forenoon and one hour after sunset or at any other time with the authority in writing of a justice for the purpose of cutting off any pipe by which the water is supplied to the premises If any person hinder any such officer workman or agent from entering any premises in pursuance of this section he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for opening valves &c.

43. Where the owner or occupier of any house or building or part of a house or building or premises is not for the time being entitled to a supply or the continuance of a supply of water by the Company to or in respect of such house or building or part of a house or building or premises any person who shall without the authority of the Company turn on or cause or permit to be turned on or permit to remain turned on any cock valve or other apparatus attached to any service main or pipe connected with any main of the Company and provided or available for the purpose of affording such supply shall be deemed to commit an offence under section 60 of the Waterworks Clauses Act 1847 and the said section shall extend and apply accordingly.

Recovery of expense of cutting off supplies in certain cases.

44.—(1) In any case in which in consequence of any default (other than neglect to pay the water rate) on the part of any person to whom or for whose use the Company supply water the Company cut off any of the pipes by or through which water is supplied by them to or for the use of such person the expense incurred by the Company in such cutting off shall be recoverable by the Company as the water rates in respect of the premises for the supply to which such pipes were laid are recoverable.

(2) The powers conferred by this section shall be in addition to and not in derogation of the rights and remedies of the Company under section 74 of the Waterworks Clauses Act 1847.

Recovery of rates from persons removing.

45. If a justice is satisfied on complaint by any collector of the Company duly authorised that any person is quitting or about to quit any premises to which the Company supply water and has failed to pay on demand any water rate or

PART IV. —*cont.*

charge which may be due from him and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein to seize forthwith and detain the goods and chattels of the defaulter until the complaint is determined upon the return of the summons.

Byelaws for preventing waste of water.

46.—(1) The Company may make byelaws for the purpose of preventing the waste undue consumption misuse or contamination of water and may by such byelaws—

(*a*) prescribe the size nature materials workmanship and strength and the mode of arrangement connection disconnection alteration and repair of pipes meters cocks ferrules valves soil-pans waterclosets baths cisterns and other apparatus (in this section referred to as "water fittings") to be used and forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination; and

(*b*) provide for the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings or apparatus and prescribe the charge to be made for such testing and stamping.

(2) Such byelaws shall apply only in the case of premises to which the Company are bound to afford and do in fact afford or are prepared on demand to afford a constant supply.

(3) All such byelaws shall be subject to the provisions contained in subsections (2) (3) (4) (6) (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and all penalties imposed for breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of penalties and those sections shall for the purposes of this section be construed as if the Company were a local authority within the meaning of those sections and the secretary were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister.

(4) In addition to complying with the said requirements of section 250 of the Local Government Act 1933 the Company shall—

(*a*) send at least one month before application is made to the Minister for confirmation of byelaws made under this section a copy of the byelaws to the local authority of every district in which the premises to which the byelaws will apply are situate;

PART IV. —*cont.*

(*b*) publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation; and

(*c*) at the request of any person interested furnish to him a copy of the byelaws before confirmation upon payment of a sum not exceeding one shilling.

(5) In case of failure of any person to observe such byelaws as are for the time being in force the Company may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any water fittings belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be recoverable by the Company as the water rates in respect of the premises are recoverable.

(6) Any person who shall forge or counterfeit any stamp or mark used by the Company or by the authority of the Company for any of the purposes of this section or who shall use or supply anything marked with any such stamp or mark knowing the same to be forged or counterfeited shall for every such offence be liable to a penalty not exceeding twenty pounds.

(7) Until byelaws have been made under this section and confirmed pursuant to section 250 of the Local Government Act 1933 any regulations and byelaws made by the Company for the like purposes under the Borough of Portsmouth Waterworks Act 1873 and section 18 (Byelaws for preventing waste of water) of the Borough of Portsmouth Waterworks Act 1921 respectively and in force at the passing of this Act shall notwithstanding the repeal by this Act of the said Act of 1873 and the said section 18 continue in force and have full effect. 36 & 37 Vict. c. cvi.

(8) Nothing in subsection (1) of this section or in any byelaws made thereunder shall apply to any water fittings used on any premises which form part of the railways of a railway company so long as such fittings do not cause waste undue consumption misuse or contamination of water which is supplied by the Company:

Provided that the exemption conferred by this subsection shall not extend to water fittings used in hotels or other houses or used in offices not forming part of a railway station.

As to register of meters.

47.—(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 and in respect of which any water rate is charged and sought to be recovered by the Company:

PART IV. —*cont.*

Provided that if the Company and a consumer of water differ as to the quantity consumed such difference shall be determined upon 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 such 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 at the beginning of the then current quarter of the year unless it be proved to have first arisen during the then current quarter Any charge for water erroneously registered as supplied to a consumer for which he has paid and any additional sum due from any consumer for water supplied to him but not registered shall be paid by or to the Company to or by the consumer as the case may be and in the case of an additional sum due from a consumer shall be recoverable in the like manner as water rates are recoverable by the Company.

PART V.

SERVICE PIPES.

Commencement of Part V.

48. This Part of this Act shall come into force on and not until the first day of January or the first day of July next following the termination of the present war whichever shall be the later.

Definitions for Part V.

49. In this Part of this Act unless the subject or context otherwise requires—

" the appointed day " means the first day of January or the first day of July next following the termination of the present war whichever shall be the later;

" main " means a pipe laid by the Company for the purpose of giving a general supply of water as distinct from a supply to individual premises and includes any apparatus used in connection with such a pipe;

" service pipe " means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main or would be so subject but for the closing of some tap;

" supply pipe " means so much of any service pipe as is not a communication pipe;

" communication pipe " means—

(*a*) where the premises supplied with water abut on the part of the street in which the main is laid

PART V. —*cont.*

and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stop-cock placed in those premises and as near to the boundary of that street as is reasonably practicable so much of the service pipe as lies between the main and that stop-cock; and

(*b*) in any other case so much of the service pipe as lies between the main and the boundary of that part of the street in which the main is laid;

and includes the ferrule at the junction of the service pipe with the main and also—

(i) where the communication pipe ends at a stop-cock that stop-cock; and

(ii) any stop-cock fitted on the communication pipe between the end thereof and the main;

"outer wall" in relation to a building abutting on a street does not include the outer wall of a cellar or other structure belonging to that building but situate beneath the street.

Transfer and vesting of communication pipes &c.

50.—(1) On the appointed day so much of every service pipe as constitutes a communication pipe not then the property of the Company shall by virtue of this Part of this Act become transferred to the Company without payment therefor and as from the appointed day all communication pipes whether laid before or after the appointed day shall vest in the Company and the Company shall at their own expense carry out any necessary works of maintenance repair or renewal of such pipes and any work on their mains incidental thereto.

(2) The Company shall also carry out any such necessary works as aforesaid in the case of so much of any supply pipe as is laid in a highway and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the premises supplied by the pipe but without prejudice to the rights and obligations as between themselves of the owner and the occupier of the premises.

(3) If the Company fail to carry out any such necessary work with all reasonable dispatch after service upon them of complaint of a defect from an owner or occupier of premises affected they shall unless such failure is due to unavoidable cause or any accident be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues.

PART V. —*cont.*

Laying of supply pipes &c.

51. On and after the appointed day an owner or occupier of any premises within the limits of supply who desires to have a supply of water for domestic purposes from the Company shall subject to the provisions of this Part of this Act comply with the following requirements:—

(*a*) he shall give to the Company fourteen days' notice of his intention to lay the necessary supply pipe and at or before the time of giving such notice shall pay or tender to them such sum as may be payable in advance by way of water rate in respect of the premises;

(*b*) he shall lay the supply pipe at his own expense having first obtained as respects any land not forming part of a street the consent of the owners and occupiers thereof; and

(*c*) the bore of the supply pipe shall not exceed half an inch except with the consent of the Company and the strength and material of such pipe shall comply with the requirements of any byelaws or regulations of the Company with respect to those matters:

Provided that where any part of the supply pipe is to be laid in a highway he shall not himself break open the highway or lay that part of the pipe.

Laying of communication pipes &c.

52.—(1) Upon receipt of such a notice as is referred to in the last preceding section the Company shall lay the necessary communication pipe and any part of the supply pipe which is to be laid in a highway and shall connect the communication pipe with the supply pipe:

Provided that where any part of the supply pipe is to be laid in a highway they may elect to lay a main in the highway for such distance as they think fit in lieu of a supply pipe and in that case shall lay a communication pipe from that main and connect it with the supply pipe.

(2) If the Company fail to carry out the said work within fourteen days after the person by whom the notice was given has laid a supply pipe in accordance with the provisions of the last preceding section they shall unless such failure is due to unavoidable cause or any accident be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after the expiration of the said fourteen days.

(3) The expenses reasonably incurred by the Company in executing the work which they are required or authorised by this section to execute shall be repaid to them by the person by whom the notice was given and may be recovered by them from him summarily as a civil debt:

PART V. —*cont.*

Provided that if under the provisions of this section the Company lay a main in lieu of part of a supply pipe the additional cost incurred in laying a main instead of a supply pipe shall be borne by them.

(4) Notwithstanding anything in the foregoing provisions of this section the Company may within three days after the receipt of such a notice as aforesaid require the person giving the notice either to pay to them in advance the cost of the work as estimated by their engineer or to give security for payment thereof to their satisfaction and where they make such a requirement the period of fourteen days referred to in subsection (2) of this section shall not commence to run until the requirement has been complied with.

(5) If any payment so made to the Company exceeds the expenses which under the foregoing provisions of this section they would be entitled to recover from the person giving the notice the excess shall be repaid by them and if and so far as those expenses are not covered by the payment they may recover the balance from him summarily as a civil debt.

Power to require separate service pipes.

53.—(1) Subject to the provisions of this section the Company may require the provision of a separate service pipe for each house supplied or to be supplied by them with water.

(2) If in the case of a house already supplied with water but not having a separate service pipe the Company give notice to the owner of the house requiring the provision of such a pipe the owner shall within three months lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a highway and the Company shall within fourteen days after he has done so lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a highway and make all necessary connections.

(3) If an owner upon whom a notice has been served under subsection (2) of this section fails to comply therewith the Company may themselves execute the work which he was required to execute.

(4) The expenses reasonably incurred by the Company in executing the work which they are required by subsection (2) of this section to execute or which they are empowered by subsection (3) of this section to execute shall be repaid to them by the owner of the house and may be recovered by them from him summarily as a civil debt but without prejudice to the rights and obligations as between themselves of the owner and the occupier of the house.

(5) If the Company make default in executing the work which they are required by subsection (2) of this section to

PART V. —*cont.*

execute they shall unless such failure is due to unavoidable cause or any accident be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after the expiration of the said fourteen days.

(6) Where the owner of a group or block of houses is liable by law or undertakes in writing to pay the water rates in respect of all those houses then so long as he punctually pays those rates and the supply pipe of those houses is sufficient to meet the requirements thereof the Company shall not require the provision of separate service pipes for those houses.

(7) Without prejudice to the provisions of subsection (6) of this section where on the appointed day two or more houses were being supplied with water by a single service pipe the Company shall not require the provision of separate service pipes for those houses until either—

(*a*) the existing supply pipe becomes so defective as to require renewal or is no longer sufficient to meet the requirements of the houses; or

(*b*) an instalment of the water rate in respect of any of the houses remains unpaid after the end of the period for which it is due; or

(*c*) the houses are by structural alterations to one or more of them converted into a larger number of houses.

Power to break open streets forming boundary of limits of supply.

54. Where any premises which are within the the limits of supply abut on or are situate near to any street which is as to the whole or a part of its width outside those limits the Company may for the purpose of supplying water to the owner or occupier of those premises exercise with respect to the whole width of the street the like powers of laying inspecting repairing altering renewing and removing service pipes with any necessary stop-cocks and fittings and of breaking open the street for that purpose as are exerciseable by them with respect to streets within the said limits subject however to the like conditions and obligations.

As to position &c. of stop-cocks.

55.—(1) On every service pipe laid after the appointed day the Company shall and on every service pipe laid before that date the Company may fit a stop-cock enclosed in a covered box or pit of such size as may be reasonably necessary.

(2) Every stop-cock fitted on a service pipe after the appointed day shall be placed in such position as the Company deem most convenient:

PART V. —*cont.*

Provided that—

(*a*) a stop-cock in a street shall after consultation with the highway authority concerned be placed as near to the boundary thereof as is reasonably practicable; and

(*b*) a stop-cock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises.

Certain provisions of Waterworks Clauses Act 1847 to cease to apply.

56. On and after the appointed day the provisions of this Part of this Act shall have effect in substitution for the provisions of sections 44 to 47 with respect to the communication pipes to be laid by the undertakers and of sections 48 to 52 with respect to the communication pipes to be laid by the inhabitants of the Waterworks Clauses Act 1847 and as from that date the said sections shall cease to apply within the limits of supply.

Repeal and amendment of provisions relating to communication pipes.

57.—(1) On the appointed day the following enactments shall become and are hereby repealed:—

Borough of Portsmouth Waterworks Act 1906— 6 Edw. 7. c. cxlviii.

Section 14 (Company not bound to supply several houses by one pipe):

Borough of Portsmouth Waterworks Act 1921—

Section 16 (As to communication pipes):

Act of 1930—

Section 18 (As to streets and roads forming boundary of limits of supply);

Section 25 (Company to maintain communication pipes under streets);

Section 27 (Company to connect communication pipes with mains);

Section 28 (Stop-cocks to be fitted in communication pipes);

Section 30 (As to provision of separate pipe).

(2) On and after the appointed day section 26 (Power to Company to repair communication pipes) section 29 (Maintenance of common pipe) and section 32 (Power to supply and fix service pipes &c.) of the Act of 1930 shall have effect as if the several expressions " communication pipe " in the said section 26 " common pipe " in the said section 29 and " communication or service pipe " in the said section 32 meant a supply pipe as defined in this Part of this Act.

(3) On and after the appointed day section 19 of the Waterworks Clauses Act 1863 which prohibits the extension or alteration of pipes without the consent of the undertakers

PART V. —*cont.*

shall in its application to the Company have effect as if the expression " communication or service pipe " meant a supply pipe as defined in this Part of this Act.

PART VI.

FINANCE.

Additional capital.

58. The Company may from time to time raise by the creation and issue of new ordinary stock or new preference stock or partly by one and partly by the other of those modes additional capital to such nominal amount as shall be sufficient to produce after taking into account any premiums or discounts which may be obtained or allowed on the issue thereof and allowing for the expenses of such issue the sum of one hundred and fifty thousand pounds.

Special provision for benefit of small investors.

59. Notwithstanding anything in any Act or Order relating to the Company the directors may with the approval of a resolution of a general meeting of the Company reserve a proportion not exceeding one-fourth of each future issue of share capital of the Company for exclusive offer in the first instance to consumers of water supplied by the Company or employees of the Company at such price and upon such terms and conditions as to payment therefor and the payment of dividends thereon until the same become fully paid as the directors may prescribe:

Provided that every allotment of share capital under this section shall be at a price not less than the reserve price at which the like class of share capital of the same issue shall be offered under the provisions of section 49 (New stock to be sold by auction or tender) of the Act of 1930.

Dividends on additional capital.

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

Power to borrow.

61. The Company may borrow on mortgage of the undertaking in respect of any ordinary and preference stock issued by them after the passing of this Act any sum or sums not exceeding in the whole fifty per centum of the amount (including premiums and allowing for discounts) which at the time of borrowing has been raised by the issue of such ordinary

PART VI. —*cont.*

and preference stock but no sum shall be borrowed in respect of such stock (other than capital raised by the issue of stock allotted under the provisions of section 59 (Special provision for benefit of small investors) of this Act) until the Company have proved to a justice before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the amounts payable in respect of such stock together with the premiums (if any) realised or after allowing for discounts (if any) given on the issue thereof has been fully paid up.

Debenture stock.

62. 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 32 (All debenture stock and future mortgages of Company to rank pari passu) of the Borough of Portsmouth Waterworks Act 1906 Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

32 & 33 Vict. c. 48.

Priority of mortgages and debenture stock over other debts.

63. All moneys raised or to be raised by the Company on mortgage or by the creation and issue of 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 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 or vested in the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the undertaking and works of the Company or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

Appointment of receiver.

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

PART VI. —*cont.* Redeemable preference capital and debenture stock.

65.—(1) In this section unless the context otherwise requires—

"Stock" means and includes preference stock and debenture stock;

"Issue" includes re-issue;

"Redeemable stock" means any stock issued under the powers of this section so as to be redeemable;

"Redeemed stock" means any redeemable stock which has been redeemed and is available for issue under the provisions of this section.

(2) Subject to the provisions of this section the directors may from time to time by virtue of this Act and without further or other sanction issue so as to be redeemable any stock created by the Company after the passing of this Act and any redeemed stock:

Provided that no redeemed stock shall be issued except for the purpose of effecting the redemption of redeemable stock under the provisions of this section unless the issue is authorised by a resolution of a general meeting of the Company.

(3) Redeemable stock may be redeemed either by paying off the stock or by issuing to the holder of the stock (subject to his consent) other stock in substitution therefor and for the purpose of raising money to pay off or of providing stock in substitution for any redeemable stock the Company may create new stock or the directors may issue any redeemed stock so as to be redeemable or irredeemable as they may think fit:

Provided that—

(*a*) no new stock shall be created nor shall any redeemed stock be issued so as to make the total amount of any particular class of stock exceed the amount of stock of that class which the Company are for the time being authorised to create except during any reasonable interval between the creation or (in the case of redeemed stock) the issue of the stock and completion of the redemption of the redeemable stock for the purpose of redeeming which the stock of such particular class is proposed to be so created or issued; and

(*b*) during such interval as aforesaid the amount raised by means of any preference stock so created or issued shall not be deemed for the purposes of any enactment regulating the borrowing powers of the Company to have been raised.

PART VI. —*cont.*

(4) The redemption of any preference stock issued so as to be redeemable shall not affect the validity of any mortgage or debenture stock of which the grant or issue by the Company was lawful in the circumstances existing at the date of such grant or issue.

(5) Redeemable stock shall bear such rate of dividend or interest (not exceeding any maximum rate prescribed in respect of the particular class of stock) and shall be redeemable at such time and in such manner and subject otherwise to such terms and conditions as the directors may before the issue thereof determine:

Provided that the terms and conditions of redemption upon which any redeemable stock is issued shall be stated in any offer by the Company of such stock for sale and in the certificate of such stock and no term or condition of redemption which is not so stated shall be binding upon the holder of the stock.

(6) The Company shall not redeem out of revenue any redeemable stock but any discount allowed on the issue or any premium payable on the redemption thereof may be written off out of revenue.

(7) The provisions of section 49 (New stock to be sold by auction or tender) of the Act of 1930 shall not apply to any stock created and issued in substitution for any redeemable stock issued under the powers of this section.

Purchase of debenture stock by agreement.

66.—(1) The Company may at any time purchase by agreement any debenture stock of the Company at a price not exceeding the market value thereof and for that purpose may apply any moneys for the time being in their hands which they are entitled to apply to capital purposes.

(2) Any debenture stock purchased under the provisions of this section may at any time be cancelled and extinguished by the Company and the amount of any debenture stock so cancelled shall be deemed to be money borrowed and paid off by the Company within the meaning of section 39 of the Companies Clauses Consolidation Act 1845 and the provisions of that section as to re-borrowing by the Company shall apply accordingly.

Application of money.

67.—(1) All moneys raised under this Act including premiums shall be applied only to purposes to which capital is properly applicable and any sum of money which may arise by way of premium from the issue of stock under the provisions of this Act shall not be considered as part of the capital of the Company entitled to dividend.

PART VI. —*cont.*

(2) 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.

Saving for emergency powers of Treasury.

68.—(1) So long as this section continues in force it shall not be lawful without the consent of the Treasury to exercise the powers of borrowing or raising capital conferred by this Act.

54 & 55 Vict. c. 39.

(2) Section 113 of the Stamp Act 1891 (which in the case of any increase in the amount of nominal share capital of a company being authorised by any Act charges stamp duty on a statement of the amount of such increase to be delivered within one month from the passing of the Act) shall as amended by any subsequent enactment have effect as respects any share capital authorised to be raised by this Act as if this Act had been passed on the date when such consent as aforesaid is given as respects that capital or on the date when this section expires whichever first occurs.

(3) This section shall continue in force so long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by regulations made under the Emergency Powers (Defence) Acts 1939 and 1940.

2 & 3 Geo. 6. c. 62. 3 & 4 Geo. 6. c. 45.

Reserve fund.

69.—(1) The directors may in any year set apart out of the clear profits of the undertaking such sum as they may determine (subject to the provisions of subsections (2) and (3) of this section) and any sums so set apart may from time to time be invested in investments in which trustees are authorised by law to invest money and the dividends and interest arising from such investments may also be invested in the same or like investments in order that the same may accumulate at compound interest The fund so formed shall form a reserve fund to answer any deficiency which may at any time happen in the amount of divisible profits or to meet any extraordinary claim or demand which may at any time arise against the Company and if such fund be at any time reduced it may thereafter be again restored within the limit prescribed by this section and so from time to time as often as such reduction shall happen.

(2) The amount which may be carried by the Company in any year to the reserve fund shall not exceed a sum equal to one per centum of the capital of the Company for the time being authorised.

(3) The amount standing to the credit of the reserve fund shall not at any time exceed a sum equal to ten per centum of the capital of the Company for the time being authorised and whenever and so long as the reserve fund amounts to

PART VI. —*cont.*

such sum the interest and dividends on the reserve fund shall no longer be invested but shall be applied to any of the general purposes of the undertaking to which the profits of the Company are applicable.

(4) Notwithstanding anything contained in the Portsmouth Water Acts and Orders 1857 to 1941 sections 76 to 78 of the Waterworks Clauses Act 1847 shall cease to apply to the Company and the undertaking.

Limit on contingency fund.

70. The amount which may be carried by the Company in any year to the contingency fund of the Company shall not exceed a sum equal to one per centum of the amount for the time being expended by the Company for the purposes of the undertaking and charged to capital account.

Limitation on carry forward.

71. It shall not be lawful for the Company to carry forward at the end of any year to the credit of the profit and loss (net revenue) account of the undertaking any sum exceeding the total of the following amounts (that is to say):—

(*a*) the amount required by the Company for paying any dividend or interest which the Company are entitled or required to pay but have not paid in respect of that year;

(*b*) an amount equal to the total sum which the Company would be lawfully entitled to distribute as dividends on any preference and ordinary share capital in respect of the next following year; and

(*c*) an amount equal to the total sum which the Company will be required to pay as interest in respect of the next following year on any mortgages or debenture stock.

PART VII.

PROTECTIVE PROVISIONS.

Saving for Crown and War Department.

72. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown or in particular except with and subject to the terms of the consent in writing of the Secretary of State for War (hereinafter in this section called "the Secretary of State")—

(i) authorises the Company to take enter upon use or interfere with any land or water (notwithstanding that any such land or water may be described in the deposited books of reference or delineated on the deposited plans and sections) or any right in respect thereof for the time being vested in or in the occupation of or exercised or exerciseable by the Secretary

PART VII. —*cont.*

of State or vested in or in the occupation of or exercised or exerciseable by any other person body or corporation acting for or on behalf of the Secretary of State; or

(ii) takes away lessens prejudices or alters any right privilege or power vested in or exercised or exerciseable by the Secretary of State.

Any consent for the purpose of this section may be given on such conditions as the Secretary of State may see fit to impose.

For protection of Fareham Urban District Council.

73.—(1) Notwithstanding anything contained in section 17 (For protection of local sources of supply) of this Act the waterworks in this section referred to shall except so far as may be otherwise agreed between the Company and the Fareham Urban District Council (in this section referred to as " the council ") be deemed for all the purposes of that section to be a protected source as defined in that section.

(2) The waterworks referred to in subsection (1) of this section are the well boreholes pumping station and other works belonging to the council and situate at Wallington (hereinafter referred to as " the protected works ").

(3) The Company shall keep records of the quantities of water from time to time pumped at Work No. 1 authorised by this Act and of the quantity of water flowing down the river Wallington at a point to be agreed between the council and the Company or settled by arbitration and such records shall be open at all reasonable times to the inspection of the council and the council shall keep records of the quantities of water from time to time pumped at the protected works and such records shall be open at all times to the inspection of the Company.

(4) For the purpose of enabling the quantity of water flowing down the river Wallington to be measured the council shall provide facilities for the construction by the Company of a weir-gauge of a type reasonably approved by the council and any expenses reasonably incurred by the council in providing such facilities shall be repaid by the Company.

For protection of Southern Railway Company.

74. The Company in the exercise of the powers of Part IV of this Act contained in sections 30 (Power to lay connecting mains) 31 (Power to lay pipes &c. in certain private streets) and 32 (Meters &c. in streets) shall not enter upon break up or interfere with any street sewer rails pipes wires or apparatus belonging to or repairable by the Southern Railway Company without the consent of that company which consent shall not be unreasonably withheld Any question as to whether or not any such consent has been unreasonably withheld shall be determined by arbitration.

PART VII. —*cont.*

For protection of Gosport Company.

75. For the protection of the Gosport Company the following provisions shall unless otherwise agreed in writing between the Gosport Company and the Company have effect:—

(1) If at any time during the construction or after the completion of the Worlds End pumping station the pumping by the Company at that station shall cause a diminution or cesser of the supply of water at that time being obtained or capable of being obtained by the Gosport Company at the pumping station with well headings and other works and conveniences connected therewith (Work No. 1) authorised by the Gosport Water Act 1904 (hereinafter referred to as "the Soberton pumping station") the Company shall if so required in writing by the Gosport Company afford to the Gosport Company a supply of pure and wholesome water suitable for domestic use equal to the amount of such diminution or to the supply which shall have ceased at such price or rate (if any) that the total cost to the Gosport Company of obtaining their full supply at the Soberton pumping station shall not be greater after than before the occurrence of such diminution or cesser (as the case may be) and upon and subject to such other terms and conditions (including inter alia the point of supply and the pressure at which the supply is to be afforded) as may be agreed between the Company and the Gosport Company or determined by arbitration: 4 Edw. 7. c. xxiv.

(2) In the event of there being a diminution or cesser of the supply of water at the Soberton pumping station and there being a dispute as to whether such diminution or cesser has been caused by the pumping by the Company at the Worlds End pumping station the Company shall if so required in writing by the Gosport Company commence as soon as practicable after the laying or construction and installation of such pipes works pumping plant meters and apparatus as are referred to in paragraph (3) of this section and thereafter continue to afford to the Gosport Company a supply of water equal to the amount of such diminution or to the supply which shall have ceased of such quality at such price or rate (if any) and upon and subject to such terms and conditions as are referred to in paragraph (1) of this section:

Provided that if it shall later be agreed or determined by arbitration that the pumping by the Company at the Worlds End pumping station has

PART VII. —*cont.*

not caused the said diminution or cesser the Gosport Company shall—

(*a*) pay to the Company for the water supplied to them under this paragraph at such price or rate as failing agreement shall be determined by arbitration in lieu of any sums payable under the said paragraph (1); and

(*b*) be entitled at their option (to be exercised by the giving of notice in writing to the Company within thirty days after the date of such agreement or determination) either to continue (except in case of unusual drought) to receive and pay for the supply of water from the Company as aforesaid or to discontinue such supply as from a date not earlier than six months after the date of the notice of exercise of the said option;

and in the event of the Gosport Company deciding to continue to receive the said supply from the Company the Gosport Company may at any time after the exercise of their said option by notice in writing to the Company cease to take such supply as from the expiration of a period of six months from the date of such notice:

(3) Upon the receipt from the Gosport Company of a requirement under paragraph (1) or paragraph (2) of this section the Company shall at their own expense with all reasonable dispatch provide and lay or construct all such pipes and works and provide and instal such pumping plant meters and apparatus as shall be reasonably necessary for or in connection with the affording to the Gosport Company of the required supply of water and the Company shall at the like expense at all times maintain and keep in repair and good and efficient working condition such pipes works pumping plant meters and apparatus:

Provided that—

(*a*) if such pipes works pumping plant meters and apparatus shall have been laid constructed or installed for or in connection with the affording to the Gosport Company of a supply of water under the said paragraph (2) and it shall later be agreed or determined by arbitration that the pumping by the Company at the Worlds End pumping station has not caused such diminution or cesser as aforesaid the Gosport Company shall repay to the Company the amount reasonably expended by the Company under this

paragraph and upon such repayment the said pipes works pumping plant meters and apparatus shall become the property of the Gosport Company and may be either retained in situ or removed by them and the Gosport Company shall be responsible for the subsequent maintenance and repair thereof (if so retained) in lieu of the Company;

(*b*) in the events referred to in the foregoing proviso (*a*) the Company shall as agents for and at the cost of the Gosport Company execute such works of maintenance repair or renewal as the Gosport Company may from time to time request the Company in writing to execute of such part or parts of the said pipes works pumping plant meters and apparatus as are not for the time being within the limits of supply of the Gosport Company; and

(*c*) if at any time within thirty days after the date of any such agreement or determination as is referred to in the foregoing proviso (*a*) the Company give to the Gosport Company notice in writing of their intention so to do the Company may retain all or any part of such pipes works pumping plant meters and apparatus as are situate within the limits of supply but without prejudice to the right of the Gosport Company to continue to receive a supply of water under paragraph (2) of this section and the amount repayable by the Gosport Company as hereinbefore provided shall be correspondingly reduced:

(4) For the purposes of this section the Company may carry out all such works whether within or outside the limits of supply and do all such things as are necessary for those purposes and the Gosport Company shall grant to the Company all such easements and facilities as they lawfully can and as may be necessary for or in connection with the execution of the works required to enable the Company to carry out their obligations under this section:

(5) Pending the completion of the laying or construction of pipes and works and the installation of pumping plant meters and apparatus pursuant to paragraph (3) of this section for or in connection with the affording to the Gosport Company of a supply of water

PART VII. —*cont.*

under either paragraph (1) or paragraph (2) of this section the Company shall if so required in writing by the Gosport Company either discontinue pumping at the Worlds End pumping station or reduce the rate of such pumping to such an extent that there shall be a discontinuance of the diminution or cesser of supply at the Soberton pumping station (according as the circumstances of the case may require):

Provided that if at any time before the completion of the laying or construction and installation of such pipes works pumping plant meters and apparatus in consequence of a requirement by the Gosport Company under paragraph (2) of this section it shall be agreed or determined by arbitration that such diminution or cesser of supply was not caused by the pumping by the Company at the Worlds End pumping station the foregoing provisions of this paragraph shall cease to have effect but the Gosport Company may require that such laying or construction and installation shall either be completed by the Company in accordance with the said paragraph (3) or be discontinued and if such laying or construction and installation are so discontinued the amount to be repaid by the Gosport Company to the Company under the first proviso to the said paragraph (3) shall be the amount expended by the Company pursuant to that paragraph up to the date of such discontinuance:

(6) Notwithstanding anything in the foregoing provisions of this section the Company shall be entitled at any time within one month from the date of the receipt from the Gosport Company of a requirement under paragraph (1) or paragraph (2) of this section to give to the Gosport Company notice in writing of their intention to discontinue pumping operations at the Worlds End pumping station or to reduce the rate of such pumping to such an extent that there shall be a discontinuance of the diminution or cesser of supply at the Soberton pumping station (according as the circumstances of the case may require) and if such notice in writing be given—

(*a*) the Company shall not at any time thereafter recommence such pumping operations or shall only recommence and continue such pumping operations to such an extent as not to cause any diminution or cesser of supply at the Soberton pumping station (according as may be stated in the notice); and

PART VII. —*cont.*

(*b*) the Company shall not be required to afford a supply of water to the Gosport Company under paragraph (1) or paragraph (2) of this section or to provide lay construct or instal such pipes works meters and apparatus as are referred to in paragraph (3) of this section or to comply with the provisions of paragraph (5) of this section:

(7) (*a*) The Company shall before commencing to pump water at the Worlds End pumping station (whether during the construction or after the completion thereof) provide at that station and shall at all times thereafter maintain and keep in repair and good and efficient working condition a suitable meter for automatically measuring and recording the quantity of water pumped at the Worlds End pumping station and a suitable instrument for automatically recording the level of water in any well connected with that station and all water pumped at the Worlds End pumping station shall pass through that meter;

(*b*) The meter and instrument at the said pumping station and the records thereof shall at all reasonable times be open to the inspection of the engineer of the Gosport Company or any person authorised by him in writing and such engineer or person shall be entitled to take copies of the said records:

(8) The Soberton pumping station and the meters and instruments thereat and the records thereof shall at all reasonable times be open to the inspection of the engineer of the Company or any person authorised by him in writing in that behalf and such engineer or person shall be entitled to take copies of the said records:

(9) The Company and the Gosport Company shall from time to time mutually exchange all information in their possession or obtained by them with respect to rainfall wells borings adits gaugings of springs and streams and other hydrological data in the Hambledon valley and the Meon valley:

(10) The Company and the Gosport Company shall at their own cost respectively make such test pumping at the Worlds End pumping station and the said Soberton well as shall be reasonably required by either of them for obtaining information for the purposes of this section and each of the said companies shall communicate to the other of them the information so obtained:

(11) Notwithstanding anything in this section the Company shall not be under any obligation to afford a

PART VII. —*cont.*

supply of water under this section while prevented from supplying water in consequence of frost or other unavoidable cause or any accident:

(12) Any question or dispute between the Gosport Company and the Company under this section (including any question or dispute as to whether any diminution or cesser of the supply of water at the said Soberton well has or has not been caused by the pumping by the Company at the Worlds End pumping station) shall be determined by arbitration.

As to wells within specified distance from wells of Company and of Gosport Company.

76.—(1) If at any time after the Company shall have commenced to pump water at the Worlds End pumping station (whether during the construction or after the completion of that station) it shall be proved by the owner of any well existing at the date of the passing of the Gosport Water Act 1904 (hereinafter referred to as "the Act of 1904") and situate—

(*a*) within a radius of one and a half miles from the Soberton pumping station of the Gosport Company; and

(*b*) within a radius of two miles from the Worlds End pumping station;

that such existing well is depleted or diminished and that such depletion or diminution is caused by the pumping of water either by the Gosport Company at the said Soberton pumping station or by the Company at the Worlds End pumping station it shall (unless the Gosport Company shall after the passing of this Act carry out any works for increasing the yield of the Soberton pumping station other than Works Nos. 1 and 2 authorised by the Gosport Water Act 1940) be assumed for the purposes of section 8 (Provision where water supply affected within mile and a half of Soberton well) of the Act of 1904 and for the purposes of section 17 (For protection of local sources of supply) of this Act (unless the contrary be proved) that such depletion or diminution was caused by the pumping of water by the Company at the Worlds End pumping station.

(2) If at any time after the Company shall have commenced to pump water at the Worlds End pumping station (whether during the construction or after the completion of that station) the owner of any well existing at the date of the passing of the Act of 1904 and situate—

(*a*) within a radius of one and a half miles from the Soberton pumping station of the Gosport Company; and

(*b*) within a radius exceeding two miles but not exceeding two and two-thirds miles from the Worlds End pumping station:

PART VII. —*cont.*

delivers to the Gosport Company a claim under section 8 (Provision where water supply affected within mile and a half of Soberton well) of the Act of 1904 that such well has been depleted or diminished the Company shall indemnify the Gosport Company from and against the said claim and all costs charges damages and expenses incurred by the Gosport Company and arising directly or indirectly out of that claim unless it be proved that such depletion or diminution was not caused by the pumping of water by the Company at the Worlds End pumping station.

Amendment of section 45 of Borough of Portsmouth Waterworks Act 1906.

77. The following provision shall be substituted for paragraph (2) of section 45 (For protection of the Gosport Waterworks Company) of the Borough of Portsmouth Waterworks Act 1906:—

" (2) The Gosport Company shall not execute any works for the abstraction of water in upon or under any land situate—

(*a*) east of the following imaginary line that is to say a line drawn from north to south passing through a point two miles east of the centre of the Soberton well of the Gosport Company; or

(*b*) west of the said imaginary line and within a radius of two miles from the centre of the Worlds End pumping station (Work No. 1) authorised by the Portsmouth Water Act 1941;

and the Company shall not oppose the Gosport Company seeking power to execute any works for the abstraction of water in under or upon any land (other than any such land as is referred to in the foregoing paragraph (*b*)) west of such imaginary line."

For mutual protection of Company and Portsmouth and Gosport Gas Company.

78.—(1) Whenever the Company in the exercise of their statutory powers (whether under any existing Act or Order or under this Act or under any subsequent Act or Order) require to execute any work (other than the laying of a service pipe as defined in Part V of this Act or any part of any such service pipe and the breaking up of a street for that purpose) over across under or within three feet of any main or pipe having an internal diameter of not less than nine inches of the Portsmouth and Gosport Gas Company (in this section referred to as " the gas company ") and whenever the gas company in the exercise of their statutory powers under any existing or future Act or Order require to execute any work (other than the laying of a pipe from any main for giving a supply of gas to the premises of a consumer or intending consumer and the breaking up of a street for that purpose) over across under

PART VII. —*cont.*

or within three feet of any main or pipe having an internal diameter of not less than nine inches of the Company then—

(*a*) the Company or the gas company as the case may be (in this section referred to as " the operators ") shall unless otherwise agreed between them give to the other of them (in this section referred to as " the owners") not less than three days' notice in writing before commencing to execute the work except in any case of emergency when they shall give notice as soon as possible after the beginning of the work or the necessity for the work shall have arisen;

(*b*) the owners shall be entitled by their duly authorised officer to superintend the work;

(*c*) the operators shall conform with such reasonable requirements as may be made by the owners or such officer for protecting from injury every such main or pipe and for securing access thereto and shall if so required by the owners make good all damage done thereto;

(*d*) where the operators find it necessary to undermine any such main or pipe they shall temporarily support the same in position during the execution of the works and before completion provide a suitable and proper foundation for the same where so undermined;

(*e*) the works executed by the operators shall after completion be maintained by the operators in proper condition and repair.

(2) Any difference under this section between the Company and the gas company shall be determined by arbitration.

(3) The provisions of this section shall be in addition to and not in derogation of any rights or obligations of the Company and the gas company respectively with respect to the payment of compensation for damage done in the execution of their powers under any enactment for the time being in force regulating their respective undertakings or any Act or part of any Act incorporated therewith or at common law.

For protection of Colonel Thistlethwayte.

79. Notwithstanding anything in this Act or shown on the deposited plans the following provisions for the protection of Lieutenant-Colonel Evelyn William Thistlethwayte his heirs or assigns or other the owner or owners for the time being of the specified lands (as hereinafter defined) (all of whom are in this section referred to as "the owner ") shall unless otherwise agreed in writing between the owner and the Company apply and have effect:—

(1) In this section—

" the specified lands " means the properties in the parish of Southwick and Widley in the rural

PART VII. —*cont.*

district of Droxford numbered on the deposited plans 11 to 16 (both inclusive) 18 to 31 (both inclusive and including 24A) 33 to 41 (both inclusive) 43 to 47 (both inclusive) 49 50 and 52 to 56 (both inclusive);

" the specified work " means the line or lines of pipes Work No. 2 authorised by this Act and includes any works connected therewith or subsidiary thereto so authorised and any additional line or lines of pipes so authorised:

(2) The Company shall not purchase or acquire under this Act any part of the specified lands but the Company may in exercise of the powers conferred on them by section 19 (Acquisition of easements compulsorily) of this Act acquire such easements and rights in the specified lands as the Company may require Provided that except for temporary purposes any easement so acquired by the Company from the owner shall not extend to any greater width than forty feet.

The provisions of subsection (2) of the said section 19 shall apply with respect to any lands in respect of which the Company acquire easements or rights pursuant to this paragraph:

(3) No permanent house or building shall be constructed by the Company or by the owner on any lands in respect of which the Company have acquired permanent easements under this section:

(4) Not less than one month before commencing to execute any work under or on the specified lands the Company shall submit to the owner particulars (including where reasonably necessary plans and sections) of the intended work (except in case of emergency when in lieu of submitting such particulars the Company shall give to the owner such notice of their intention to commence such execution as may be reasonably practicable) and the Company shall not commence the execution of any such work until the particulars thereof shall have been approved by the owner or settled by arbitration as hereinafter provided Provided that if the owner shall not within twenty-one days after the receipt by him of any such particulars intimate to the Company any objection thereto he shall be deemed to have approved the particulars as submitted to him by the Company:

(5) The Company shall not execute any work under or on woodland forming part of the specified lands

PART VII. —*cont.*

except during the period between the fifteenth day of December in any year and the fifteenth day of March in the next succeeding year:

(6) When the Company shall commence the execution of any work under or on any part of the specified lands they shall proceed with such execution with all reasonable dispatch and shall complete the work and restore the surface of the ground within the shortest practicable period:

(7) At all times while any trench or excavation dug by the Company in the specified lands remains open the Company shall keep such trench or excavation properly fenced and guarded and if any horses cattle or other livestock of the owner or his lessees or tenants shall be killed or injured by falling into any such trench or excavation by reason of any negligence on the part of the Company the Company shall make full compensation therefor:

(8) In filling in any trench or excavation dug by the Company in the specified lands the Company shall use only the excavated material and shall replace the same in layers so that the condition of the productive soil shall be as nearly as practicable the same as before the trench or excavation was dug:

(9) All surplus soil or material excavated in the construction or maintenance of any works in the specified lands shall as the owner may direct be deposited by the Company on such part or parts of the specified lands as the owner may reasonably approve or be removed by the Company from the lands of the owner within two months from the completion of each section of the specified work:

(10) All works of the Company under or on the specified lands (including the restoration of the surface of the ground) shall be carried out to the reasonable satisfaction of the owner:

(11) All footpaths watercourses pipes hedges walls fences gates sewers drains and other like matters and things belonging to the owner which may be interfered with or injured or otherwise injuriously affected by the Company during the construction inspection maintenance repairing or renewal of the specified work so far as it is situate in the specified lands shall subject to the provisons of this section be made good as soon as reasonably practicable by and at the expense of the Company who shall in such construction inspection maintenance repairing and

renewal do as little damage as is reasonably practicable to the lands of the owner and to the user and enjoyment thereof:

(12) In the construction inspection maintenance repairing and renewal of the specified work the Company shall do as little damage as reasonably may be to any trees upon any part of the specified lands:

(13) The Company shall exercise all reasonable precautions in the construction maintenance repairing or renewal of the specified work so as not to divert intercept take or prejudicially affect any springs or streams or any water tributary to such springs or streams affording a supply of water to the owner or his lessees or tenants:

(14) No telegraph or telephone wire or other means of like communication shall be laid by the Company above ground through the specified lands:

(15) The Company shall take all reasonable means for preventing persons in the employ of themselves or their contractors or sub-contractors trespassing on the lands of the owner and if there be any such trespass the Company shall pay reasonable compensation for any damage caused thereby to the owner or his lessees or tenants The Company shall also take all practicable steps to prevent dogs being kept by any such persons during the construction of the work No. 2 authorised by this Act:

(16) The Company shall not in any fence (whether temporary or permanent) to be erected by them in any part of the specified lands use any wire whether barbed or otherwise or any wire netting except with the consent of the owner which shall not be unreasonably withheld:

(17) The Company shall make full compensation to the owner and his lessees and tenants for any damage caused to him or them and for any reasonable expense which he or they may incur by or in consequence of the leaking bursting or giving way of the specified work due to the negligence or default of the Company or their contractors sub-contractors or workmen:

(18) The Company shall in addition to any other compensation payable to the owner his lessees or tenants under the provisions of this Act or any Act incorporated therewith be responsible for and pay to the owner his lessees and tenants full compensation for

PART VII. —*cont.*

all damage done by fires caused by engines or locomotives used by the Company in the construction of the specified work through the specified lands:

(19) Before commencing any haulage of materials and things for the execution of the works authorised by this Act on or over any roads situate on any lands of the owner and not repairable by the inhabitants at large the Company shall give notice in writing to the owner and shall during the period of such haulage maintain and repair and after the completion of such haulage forthwith restore such roads to as good a condition as that in which they were before the haulage was commenced:

Provided that if the owner or his lessees or tenants shall carry out any haulage on or over the said roads the owner shall pay to the Company a fair proportion of the cost of such maintenance repair and restoration:

(20) Any question (other than any question to which the provisions of the Lands Clauses Acts apply) which shall arise between the Company and the owner under this section shall be determined by arbitration.

Supply of water to Southwick estate.

80. For the further protection of Lieutenant-Colonel Evelyn William Thistlethwayte his heirs and assigns the following provisions shall have effect:—

(1) In this section—

"Southwick estate" means the estate comprising 6818 acres or thereabouts in the parish of Southwick and Widley in the rural district of Droxford which at the passing of this Act belongs to the said Lieutenant-Colonel Evelyn William Thistlethwayte;

"the landowner" means the owner for the time being of Southwick House;

"main" and "service pipe" have the same respective meanings as in Part V (Service pipes) of this Act:

(2) After the completion and bringing into use for purposes of supply of the Worlds End pumping station section 51 (Laying of supply pipes &c.) and section 52 (Laying of communication pipes &c.) of this Act shall in relation to any premises forming part of or situated on the Southwick estate have effect as if the words "or agricultural purposes" were inserted in the said section 51 after the words "domestic purposes":

PART VII. —*cont.*

(3) After the completion of the laying of any service pipe in accordance with the provisions of those sections 51 and 52 for the purpose of supplying water to any such premises as aforesaid the Company shall if so required by the owner or occupier of the premises supply water to that owner or occupier for agricultural purposes as well as for domestic purposes at the water rates and subject to the conditions for the time being in force for water supplied by the Company for those respective purposes:

(4) The Company shall if so required by the landowner extend their mains from their existing main on Portsdown Hill known as the Portsdown main or from such other main as the Company may decide so as to cause water to be brought to Southwick village and Southwick House subject to the following conditions:—

(i) the landowner shall grant to the Company free of charge any easements which may be reasonably required by the Company in any property of the landowner for the purpose of laying such mains;

(ii) the landowner shall enter into an agreement with the Company binding himself to pay to the Company in each of the first three years after the completion of the laying of the said mains such sum (if any) as will with the aggregate sum received by the Company in that year from the water rates payable in respect of water supplied from such mains amount to ten per centum on the capital expenditure reasonably incurred by the Company in and in connection with the laying of such mains:

Provided that if the Company shall decide to extend their mains for such supply from a main other than the Portsdown main the sum payable by the landowner shall be calculated on the capital expenditure which would have been incurred by the Company if the said mains had been extended from the Portsdown main;

(iii) the landowner shall if so required by the Company at any time during or within three years after the completion of the extension of their mains under this paragraph sell to the Company all his estate and interest in the spring near Southwick village known as Offwell spring and in the farmhouse and farm buildings known as Offwell Farm comprising the enclosure numbered in the parish

PART VII. —*cont.*

of Southwick and Widley 543 on the 1/2500 Ordnance map Hampshire sheet LXXV.7 (edition of 1909) together with such adjoining land not exceeding five acres in extent as the Company may specify and in any pipes and works used by the landowner for the purpose of obtaining a supply of water from Offwell spring at such price as shall be agreed between the Company and the landowner or failing agreement be determined by arbitration; and

(iv) the Company shall if they purchase the said Offwell spring be entitled at all times after such purchase to take all reasonable measures for preventing the pollution of the waters of that spring:

(5) Any dispute under paragraph (2) or paragraph (3) of this section between the owner or occupier of any premises forming part of or situated on the Southwick estate and the Company or under paragraph (4) of this section between the landowner and the Company shall be determined by arbitration.

PART VIII.

ADMINISTRATIVE AND MISCELLANEOUS.

Notice of meetings.

81. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 notice of all meetings of the Company (whether ordinary or extraordinary) may (if the directors so determine) be given by letter sent by ordinary letter post to each shareholder instead of by public advertisement:

Provided that the letters giving the notice shall be directed according to the registered address or other known address of each shareholder and posted not later than seven clear days before the date of the meeting In proving that any such notice has been given it shall be sufficient to prove that the letter containing the notice was properly addressed and posted as a prepaid letter not later than the time hereby prescribed.

As to voting at general meetings.

82. Where a body corporate being a holder of ordinary or preference share capital to which voting rights are attached is present at a meeting of the Company by a proxy who is not a holder of share capital of the Company such proxy shall be entitled to vote for such body on a show of hands.

Proof of majority of votes only required when poll demanded.

83. At any meeting of the Company a majority of votes shall only be required to be proved if a poll be demanded at the meeting and if a poll be not demanded at the meeting then a declaration by the chairman that the resolution has

PART VIII. —*cont.*

been carried and an entry to that effect in the book of proceedings of the Company shall be sufficient and conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

Notice by directors of contracts.

84. For the purposes of the proviso to section 67 (Directors holding office under or contracting with Company) of the Act of 1930 a general notice given to the directors by one of them to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

Vacation of office of director.

85. If any director shall be made bankrupt or shall become of unsound mind or shall neglect to attend the meetings of directors for a period of twelve months (unless such neglect be occasioned by illness or other reasonable cause allowed by the directors) the office of such director shall become vacant and thenceforth he shall cease from voting or acting as a director.

Exercise of minor powers by one director.

86. Section 95 of the Companies Clauses Consolidation Act 1845 shall be deemed to authorise the directors to appoint any one of their body as a committee for the purposes of passing transfers and sealing certificates of any shares or other securities of the Company and of executing any other minor powers exerciseable by the directors.

Remuneration of directors for special services.

87. If any director shall devote to the business of the Company either his whole time and attention or more of his time and attention than in the opinion of the directors would usually be so devoted by a person holding such office or shall undertake or perform any duties or services other than those which in the opinion of the directors would usually be undertaken or performed by a person holding such office or shall be called upon to perform and shall perform extra services for any of the purposes of the Company then and in any of such cases the directors may remunerate the director so doing either by a fixed sum annual or otherwise or in such other manner as shall be determined by the directors and such remuneration may at the discretion of the directors be either in addition to or in substitution for all or any part of any other remuneration to which such director may be entitled:

Provided that the amount of such remuneration shall be disclosed in the next annual report of the directors or in the next annual accounts of the Company.

PART VIII. —*cont.* Signing of minutes &c.

88. Section 98 of the Companies Clauses Consolidation Act 1845 relating to proceedings shall in its application to the Company have effect as if the words " or of the next succeeding meeting " were inserted therein after the words " shall be signed by the chairman of such meeting."

As to annual accounts.

89. Notwithstanding anything in section 83 of the Waterworks Clauses Act 1847 relating to an account in abstract of receipt and expenditure it shall be sufficient compliance with the requirements of that section as modified by section 101 of the Local Government Act 1933 for the Company within seven days after the holding of the ordinary general meeting of the Company to send to the clerk of each county council a copy of the yearly accounts as submitted to the shareholders of the Company.

Addresses of shareholders &c. abroad.

90. Any registered holder of stock debenture stock or mortgages of the Company of any class whose address is not in Great Britain shall from time to time name an address in Great Britain which shall for the purposes of the Company be deemed to be the address of the holder and shall be entered in the shareholders' address book or any card or other index which the Company may keep in lieu thereof under the authority of section 70 (Substitution of card index for shareholders' address book) of the Act of 1930 or any register of debenture stock or mortgages kept by the Company pursuant to section 28 of the Companies Clauses Act 1863 and section 45 of the Companies Clauses Consolidation Act 1845 respectively and it shall not be obligatory on the Company to send any notice to any such holder otherwise than to an address so named.

As to trunk roads. 1 Edw. 8. & 1 Geo. 6. c. 5.

91. This Act shall be deemed to be an enactment within the meaning of subsection (4) of section 3 of the Trunk Roads Act 1936 and the provisions of that subsection shall apply accordingly.

Arbitration.

92. Where under this Act any question or dispute is to be referred to or determined by an arbitrator or arbitration then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties or failing agreement appointed by the President of the Institution of Civil Engineers on the application of any party to the dispute (after notice in writing to the other or others of them) and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

Repeal.

93. The following enactments are hereby repealed:—

Borough of Portsmouth Waterworks Act 1873—

The whole Act:

PART VIII. —*cont.*

42 & 43 Vict. c. xxi.

Borough of Portsmouth Waterworks Act 1879—

Section 16 (Votes and qualifications in respect of new shares or stock):

Borough of Portsmouth Waterworks Act 1921—

Subsection (2) of section 5 (Rates for supply of water for domestic purposes);

Section 18 (Byelaws for preventing waste of water);

Section 31 (As to contingency fund):

Act of 1930—

Section 17 (Pressure);

Section 34 (As to register of meter);

Section 36 (Penalty for opening valves etc.);

Section 52 (As to receiver);

Section 55 (Issue of redeemable preference and debenture stock).

Costs of Act.

94. 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.

The SCHEDULES referred to in the foregoing Act

The FIRST SCHEDULE

STATEMENT OF CAPITAL.

Description.	Maximum dividend.	Authorised.	Paid up and added on conversion.			Remaining to be issued.
			Paid up including £61,976 6s. 2d. Premiums received prior to conversion.	Added on conversion less premiums.	Total.	
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Ordinary stock ...	5%	951,400 0 0	721,831 5 11	181,023 13 10	902,854 19 9	48,545 0 3

LOAN CAPITAL.

Description.	Rate of interest.	Authorised.	Borrowed.	Remaining to be borrowed.	
				In respect of capital stock paid up.	Subject to issue of further capital stock.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.
Mortgage debentures ...	Various		75,925 11 9		
Perpetual debenture stock...	3½%	385,188 0 0	181,823 0 0		
Perpetual debenture stock...	3%		90,487 0 0	12,679 18 1	24,272 10 2
		£385,188 0 0	£348,235 11 9	£12,679 18 1	£24,272 10 2

The SECOND SCHEDULE.

LIMITS OF SUPPLY.

COUNTY OF SOUTHAMPTON.

The city of Portsmouth.

The urban district of Havant and Waterloo except so much thereof as constitutes the Hayling Ward.

So much of the urban district of Fareham as constitutes the Portchester Ward.

In the rural district of Droxford—

The parishes of Denmead.
Hambledon.
Southwick and Widley.

In the rural district of Petersfield—

The parishes of Clanfield.
Horndean.
Rowlands Castle.

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