



CHAPTER xlv.

An Act to extend the limits of the Tendring Hundred Waterworks Company for and to confer further powers on the Company with reference to the supply of water and gas to authorise the Company to construct additional waterworks and for other purposes. A.D. 1912.

[7th August 1912.]

WHEREAS by the Tendring Hundred Waterworks Act 1884 (in this Act called "the Act of 1884") the Tendring Hundred Waterworks Company (in this Act called "the Company") were incorporated and authorised to construct waterworks for supplying the parishes and places in the county of Essex therein mentioned with water:

And whereas by the Tendring Hundred Waterworks Act 1886 (in this Act called "the Act of 1886") and the Tendring Hundred Waterworks Act 1901 (in this Act called "the Act of 1901") the limits for the supply of water by the Company were extended and further powers were conferred upon the Company with reference to their water undertaking:

And whereas with a view to meeting the increased demand for water within their limits of supply the Company have constructed a pumping station near Manningtree and a service tank near Frinton and it is expedient that the construction of such pumping station and service tank be sanctioned and confirmed:

And whereas the demand for water continues to increase within the Company's limits of supply and in places adjacent thereto and it is expedient with a view to enabling the Company to meet such demand to extend their limits of supply and to

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A.D. 1912. empower them to make and maintain additional waterworks and that further powers be conferred upon the Company with reference to their water undertaking as by this Act provided:

And whereas under powers conferred upon them in that behalf by the Act of 1884 and the Act of 1886 the Company have acquired the undertaking authorised by the Walton-on-the-Naze Gas and Water Order 1878 (in this Act called "the Order of 1878") and are supplying gas within the limits for that purpose defined by the Order of 1878:

And whereas it is expedient that the limits of the Company for the supply of gas be extended and that further powers be conferred upon the Company with reference to their gas undertaking as by this Act provided:

And whereas by the Act of 1884 the Act of 1886 and the Act of 1901 the Company are authorised to raise one hundred and thirty thousand pounds by the creation and issue of eight thousand two hundred class A shares and four thousand eight hundred class B shares of ten pounds each and the whole of such shares have been issued and are fully paid up and the Company have received by way of premium on the issue of such shares after deducting the expenses of and incident to such issue the sum of two hundred and forty-four pounds or thereabouts:

And whereas under the said Acts the Company are empowered to borrow sums amounting in the aggregate to thirty-two thousand five hundred pounds and in exercise of such powers the Company have borrowed the sum of eighteen thousand seven hundred pounds by the creation and issue of debenture stock but have not borrowed any money on mortgage:

And whereas it is expedient that the Company be authorised to raise further capital for the purposes of this Act and for the general purposes of their water and gas undertakings:

And whereas plans and sections showing the lines situations and levels of the waterworks by this Act sanctioned or authorised and plans of the lands by this Act authorised to be acquired compulsorily and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the clerk of the peace for the county of Essex and are hereinafter respectively referred to as the deposited plans sections and book of reference:

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And whereas the purposes of this Act cannot be effected without the authority of Parliament: A.D. 1912.

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:—

1. This Act may be cited as the Tendring Hundred Water and Gas Act 1912. Short title.

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

The Waterworks Clauses Acts 1847 and 1863 except the words in section 44 of the Waterworks Clauses Act 1847 “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner”:

The Gasworks Clauses Acts 1847 and 1871 Provided that section 13 of the former Act shall be read as if the words “or any premises” were inserted after the words “private building” and as if the words “Provided also that every such contract entered into by the Company shall be alike in terms and amount under like circumstances to all consumers” were added at the end of that section:

The Lands Clauses Acts:

The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

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

The consolidation of the shares into stock ;

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

The making of dividends ;

The giving of notices ; and

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

And Parts I. II. and III. (relating respectively to cancellation and surrender of shares additional capital and debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts.

Interpreta-
tion,

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

The expression "the recited Acts" means and includes the Act of 1884 the Act of 1886 the Act of 1901 and the Order of 1878 ;

The expression "the new water limits" means the parishes within which the Company are by this Act authorised to supply water ;

The expression "the Company's water limits" means the limits as defined in the Act of 1884 and extended by the Act of 1886 the Act of 1901 and this Act within which the Company are authorised to supply water ;

The expression "the new waterworks" means the well and pumping station aqueducts and other works described in the section of this Act of which the marginal note is "Power to make new waterworks" ;

The expression "the new gas limits" means the parishes within which the Company are by this Act authorised to supply gas ;

The expression "the Company's gas limits" means the limits as defined in the Order of 1878 and extended by this Act within which the Company are authorised to supply gas.

SUPPLY OF WATER.

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4. From and after the passing of this Act the limits within which the Company may supply water and exercise the powers conferred upon them by the recited Acts and this Act with reference to the supply of water shall extend to and include in addition to the Company's existing limits for the supply of water the parish of Dedham in the rural district of Lexden and Winstree and the parishes of Wrabness and Little Bentley in the rural district of Tendring and within the new water limits the Company shall have and may exercise all and the like powers privileges and authorities for and in relation to the supply of water and be subject to all and the like duties and obligations in respect thereof as they now have and are subject to within their said existing limits for the supply of water and section 43 (Pressure) of the Act of 1884 shall extend to the new water limits and apply to the Company with respect to the new water limits as though the expression "the Company's water limits" in that section included the new water limits.

Extending limits for supply of water.

5. If at any time after the expiration of five years from the commencement of this Act the Company are not furnishing or prepared on demand to furnish a sufficient supply of water in accordance with the provisions of this Act in any area included within the new water limits the local authority of the district in which the area is comprised may provide a supply in the area in accordance with the provisions of the Public Health Act 1875 or any company body or person may apply for an Act of Parliament or Provisional Order for the purpose of supplying water in any part of such area as if in either case this Act had not passed.

Power to local authority &c. to supply in case Company fail to supply.

If any difference shall arise between the Company and any such local authority company body or person as to whether the Company are furnishing or prepared on demand to furnish a sufficient supply of water in any area such difference shall be settled by an arbitrator to be appointed on the application of either party by the Board of Trade.

6. The construction by the Company of the works hereinafter described together with all incidental and ancillary pipes filters works and apparatus is hereby sanctioned and confirmed and subject to the provisions of this Act the Company may for

Confirmation of construction of works.

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A.D. 1912. the purposes of their water undertaking maintain and use and from time to time upon the lands shown upon the deposited plans as the respective sites of such works alter improve enlarge extend renew repair reconstruct and discontinue such works or any of them and may retain hold and use for the purposes of such works respectively and for the general purposes of their water undertaking any of the lands so shown or any interests therein which have been already acquired by them for the purposes of or in connection with their water undertaking or the said works or any of them and the expenditure of capital by the Company for the purposes of the said works and in the acquisition of the said lands and interests is hereby sanctioned and confirmed:

The works hereinbefore referred to are situate in the rural district of Tendring in the county of Essex and are—

- (1) A well and pumping station (known as "the Lawford pumping works") upon lands near Manningtree situate partly in the parish of Lawford and partly in the parish of Mistley:
- (2) An elevated service tank (known as "the Frinton service tank") upon lands near Frinton on the northerly side of the lane known as Witton Wood in the parish of Kirby:

And the Company may subject to the provisions of this Act enter upon take and use for the purposes of the Lawford pumping works the property numbered on the deposited plans 5 in the parish of Lawford.

Power to
make new
waterworks.

7. Subject to the provisions of this Act the Company may make and maintain in the situations and according to the lines and levels shown on the deposited plans and sections the new waterworks hereinafter described and they may enter upon take and use such of the lands shown on the deposited plans and described in the deposited book of reference in connection with the new waterworks as they may require. The new waterworks will be situate in the county of Essex and are—

- (1) A well and pumping station (to be called "the Dedham pumping station") in the property numbered on the $\frac{1}{2500}$ Ordnance map (2nd edition 1904) 175 in the parish of Dedham:

- (2) An aqueduct (No. 1) (consisting of a line or lines of pipes) commencing at or in the Dedham pumping station by this Act authorised and terminating by a junction with the Company's existing main in the road leading from Manningtree to Horsley Cross; A.D. 1912.
- (3) An aqueduct (No. 2) (consisting of a line or lines of pipes) commencing by a junction with the aqueduct No. 1 by this Act authorised at or near the junction between the road known as Dead Lane and the road leading therefrom to Little Bromley village and terminating by a junction with the Company's existing main at Horsley Cross:
- (4) An aqueduct (No. 3) (consisting of a line or lines of pipes) commencing by a junction with the Company's existing main at Horsley Cross and terminating at or in the Horsley Cross water tower by this Act authorised:
- (5) A water tower or elevated service tank (to be called "the Horsley Cross water tower") in the north-east portion of the property numbered on the $\frac{1}{2500}$ Ordnance map (2nd edition 1897) 350 in the parish of Wix:
- (6) An aqueduct (No. 4) (consisting of a line or lines of pipes) commencing at or in the intended Horsley Cross water tower by this Act authorised and terminating at or in the existing high level service tank of the Company on the northerly side of Manor Lane Dovercourt.

8. In the construction of the new waterworks the Company may deviate to any extent not exceeding the limits of deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such 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 not exceeding in the case of the Horsley Cross water tower by this Act authorised five feet upwards and downwards and in the case of other works three feet upwards and to any extent downwards Provided that except for the purpose of crossing over a stream or dyke no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections. Limits of deviation.

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Period for
completion
of new
waterworks.

9. If the new waterworks are not completed within the period of seven years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for executing the same or in relation thereto respectively shall cease except as to so much thereof as is then completed. Provided that nothing in this section shall restrict the Company from at any time extending enlarging deepening altering renewing or removing any of their waterworks and any plant and incidental works or increasing or improving their supply of water or from exercising any of the powers with respect to the construction of works conferred by the Acts incorporated with this Act from time to time as occasion may require.

Power to
make addi-
tional works.

10. In addition to the new waterworks and the works described in the section of this Act of which the marginal note is "Confirmation of construction of works" the Company may upon any of the lands included within the limits of deviation for the new waterworks shown upon the deposited plans and upon any of the lands shown upon the deposited plans as the respective sites of the works described in the said section make and maintain all such cuts channels catchwaters tunnels adits headings drifts pipes conduits culverts drains sluices shafts wells bores water towers overflows waste water channels byewashes gauges filters tanks banks walls fences bridges embankments piers roads approaches engines pumps machinery telephones telegraphs and appliances as may be necessary or convenient in connection with or subsidiary to the new waterworks and the works described in the said section or any of them or necessary or expedient for the purpose of augmenting or improving the supply of water:

Provided that no telegraphs telephones or appliances made or maintained by the Company under the authority of this section shall be used for transmitting telegrams which are within the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Power to
take waters.

11. Subject to the provisions of this Act the Company may collect pump take divert convey impound use and appropriate for the purposes of their water undertaking all or any of the underground springs and waters which will or may be taken or intercepted by the new waterworks or the Lawford pumping

works or by any of the works authorised by the section of this Act the marginal note whereof is "Power to make additional works." A.D. 1912.

12. 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. Limiting powers of Company to abstract water.

13. Notwithstanding anything in this Act or shown on the deposited plans the Company shall not under the powers of this Act construct in into or under the River Stour any adit or other work for taking or intercepting water from that river nor shall they abstract water from that river. For protection of River Stour.

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

15.—(1) The Company may in lieu of acquiring any lands for the purposes of the new waterworks where the same are intended to be constructed or placed underground acquire such easements only in such lands as they may require for such purposes and may give notice to treat in respect of such easements describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such easements as fully as if the same were lands within the meaning of those Acts. Company may acquire easements only in certain cases.

(2) As regards any lands in respect of which the Company have acquired easements 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 the owners or occupiers for the time being shall subject to such easements have the same rights to use and cultivate the said lands at all times as if this Act had not passed.

(3) Provided always that nothing in this section contained shall authorise the Company to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Company to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement shall be endorsed with notice of this provision.

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Owners may
be required
to sell parts
only of cer-
tain lands
and build-
ings.

16. And whereas in the construction of the new waterworks or otherwise in the exercise by the Company of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Company and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect:—

- (1) The owner of and persons interested in any of the properties whereof the whole or part is described in the First Schedule to this Act and whereof a portion only is required for the purposes of the Company or each or any of them are hereinafter included in the term "the owner" and the said properties are hereinafter referred to as "the scheduled properties":
- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise:
- (3) If within such twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the jury arbitrators or other authority to whom the question of disputed compensation shall be submitted (hereinafter referred to as "the tribunal") shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed:

- (4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Company the portion which the tribunal shall have determined to be so severable without the Company being obliged or compellable to purchase the whole the Company paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal: A.D. 1912.
- (5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner:
- (6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Company may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice:
- (7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Company in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

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The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

Confirmation
of purchase
of lands and
acquisition
of lands by
agreement.

17.—(1) The acquisition by the Company of the following lands and premises in the county of Essex (that is to say):—

(A) Two plots of land in the parish of Dovercourt which contain by admeasurement one rood and three perches or thereabouts and one rood and fifteen perches or thereabouts respectively and comprise the northerly and westerly portions respectively of the property numbered on the $\frac{1}{2500}$ Ordnance map (second edition 1897) 107 in that parish;

(B) A plot of land in the parish of Great Oakley being the property numbered on the $\frac{1}{2500}$ Ordnance map (second edition 1897) 313 in that parish;

(C) Lands office and stores in the parish of Dovercourt situate on the north-westerly side of the main road leading from Dovercourt to Harwich which lands contain by admeasurement eleven perches or thereabouts and comprise the site of the Dovercourt and Harwich district office of the Company and are situate in the property numbered on the $\frac{1}{2500}$ Ordnance map (second edition 1898) 312 in the parish of Dovercourt;

(D) A plot of land in the parish of Tendring being the property numbered on the $\frac{1}{2500}$ Ordnance map (second edition 1897) 29 in that parish and also an adjoining plot of land and cottage thereon which last-mentioned plot of land contains by admeasurement twenty-six perches or thereabouts and is situate in the north-eastern corner of the property numbered on the said Ordnance map 25 in that parish;

is hereby sanctioned and confirmed and the Company may for the general purposes of their water undertaking retain hold and use such lands and premises:

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Provided that such lands and premises shall for the purposes of section 3 of the Housing of the Working Classes Act 1903 be deemed to have been acquired under the powers of this section. A.D. 1912.

(2) In addition to the before mentioned lands and premises and any other lands which the Company are under the powers of the recited Acts or this Act authorised to acquire and hold the Company may for the purposes of their water undertaking from time to time purchase take on lease or acquire by agreement and hold any lands or any easement right or privilege (not being an easement right or privilege of water in which persons ether than the grantors have an interest) in under or over any lands which they may require Provided that the total quantity of land held by the Company under the provisions of section 34 of the Act of 1884 section 11 of the Act of 1901 the last preceding subsection and this subsection shall not at any one time exceed forty acres in the whole.

(3) The Company may on the lands (A) (B) and (D) above described and on any lands acquired under the last preceding subsection execute for the purposes of or in connection with their water undertaking any of the works (other than wells and works for taking or intercepting water) and exercise any of the powers mentioned in or conferred by section 12 of the Waterworks Clauses Act 1847 Provided that the Company shall not on any such lands so long as the same are held by them create or permit a nuisance or erect or permit the erection of any buildings other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their water undertaking.

18. 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.

Persons under disability may grant easements &c.

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Power to
agree as to
drainage of
lands &c.

19. The Company may make and carry into effect agreements with the owners lessees or occupiers of any lands from through or under which any water may flow or percolate directly or derivatively into any well adit or other work constructed or maintained under the powers of the recited Acts or this Act with reference to the execution by the Company or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters so flowing or percolating.

Power to
hold lands
for protec-
tion of
waterworks.

20. The Company may hold any lands acquired by them under the powers of this Act which they may deem necessary for the purpose of protecting their waterworks against pollution fouling and contamination and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Act or the Lands Clauses Acts respectively but the Company shall not create or permit a nuisance on any such lands and shall not erect any buildings thereon other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with their water undertaking.

Reservations
may be im-
posed upon
sale of
superfluous
property.

21. Upon any sale by the Company under the provisions of the Lands Clauses Consolidation Act 1845 of any lands or hereditaments purchased by them under the powers of this Act the Company may reserve to themselves all or any part of the water or water rights or other easements belonging thereto and may sell such lands and hereditaments subject to such reservations accordingly and also subject to such special conditions restrictions and provisions with reference to the use of water and for preventing the exercise of noxious trades or business upon the premises and for preventing or regulating the discharge and deposit of manure sewage and other impure matter and liquids as they may think fit.

Amendment
of section 47
of Act of
1884.

22. The words "and the Company shall not be compelled to supply water for any bath so constructed as to contain when filled for use more than fifty gallons of water" in section 47 (Rates for waterclosets and baths) of the Act of 1884 are hereby repealed.

Notice to
Company of
connecting

23. Before any person connects or disconnects any meter by means of which any of the water of the Company is intended

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to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Company of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under the superintendence of any officer of or person authorised by the Company and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

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or discon-
necting
meters.

24. Subject to the provisions of the Waterworks Clauses Act 1847 the Company may for the purpose of preventing and detecting waste 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 the necessary covers or boxes for giving access and protection thereto and may for that purpose break up and interfere with temporarily public and private streets roads lanes footways courts passages tramways sewers pipes wires and apparatus:

Detection of
waste.

Provided that the Company shall not break up or interfere with any wires or apparatus of the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

25.—(1) For the purpose of executing constructing repairing cleansing emptying or examining any reservoir well adit aqueduct line of pipes or other work of the Company the Company may cause the water in any such work to be discharged into any available stream or watercourse.

Discharge of
water into
streams &c.

(2) In the exercise of the power conferred by this section the Company shall do as little damage as may be and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration under and pursuant to the provisions of the Arbitration Act 1889.

26. The Company may enter into and carry into effect agreements with any local authority company or persons for the supply of water beyond the Company's water limits to any such authority company or persons respectively in bulk for any purpose and for such remuneration and on such terms and conditions and for such period as may be agreed upon Provided

Contracts for
supplying
water in
bulk.

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SUPPLY OF GAS.

Extending limits for supply of gas.

27. From and after the passing of this Act the limits within which the Company may supply gas and exercise the powers of the recited Acts and this Act with reference to the supply of gas shall extend to and include in addition to the Company's existing limits for the supply of gas the parishes of Weeley Thorpe-le-Soken Kirby Little Clacton Great Holland and Little Holland all in the rural district of Tendring in the county of Essex and within those parishes the Company shall have and may exercise all and the like powers rights privileges and authorities for and in relation to the supply of gas and be subject to all and the like duties and obligations in respect thereof as they now have and are subject to within their said existing limits for the supply of gas.

Repeal of provisions of Order of 1878 with certain exceptions.

28. The Order of 1878 is hereby repealed save and except the provisions thereof which are set forth in the Second Schedule to this Act and in such provisions the expression "undertakers" shall be deemed to mean the Company and the expression "deposited map" shall mean the map deposited for the purposes of the Order of 1878 in connection with the gas undertaking authorised by that Order.

Additional lands for gas undertaking.

29. In addition to any lands which under the provisions of the Order of 1878 set forth in the Second Schedule to this Act the Company are authorised to purchase or hold the Company may purchase or take on lease (by agreement but not otherwise) and may hold for the purposes of their gas undertaking any lands and hereditaments which they may require Provided that the total quantity of land held by the Company under the provisions of section 16 of the Order of 1878 and this section shall not at any one time exceed fifteen acres in the whole but the Company shall not create or permit a nuisance on any lands acquired under the provisions of this section and no lands so acquired by the Company shall be used for the purpose of manufacturing gas or residual products.

30. The price to be charged by the Company for gas supplied by them to persons who shall burn the same by meter shall not at any time exceed five shillings per one thousand cubic feet within the Company's existing limits for the supply of gas or five shillings and sixpence per one thousand cubic feet within the new gas limits.

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Limiting
price of gas.

31. The prescribed number of candles shall be not less than fourteen.

Quality of
gas.

32. For the purposes of the Gasworks Clauses Act 1871 the prescribed testing place shall be a testing place which shall be provided by the Company at their gasworks.

Testing
place.

33.—(1) The quality of the gas supplied by the Company shall with respect to its illuminating power be such as to produce at the testing place when burned at the rate of five cubic feet per hour a light equal in intensity to the light produced by fourteen sperm candles of six to the pound each consuming one hundred and twenty grains of sperm per hour and shall be in all respects in accordance with the provisions of the Gasworks Clauses Act 1871.

Testing for
quality.

(2) For testing the illuminating power of the gas the burner to be used shall be that known as the Metropolitan Argand No. 2 the photometer shall be the bar photometer the standard light shall be that supplied by Harcourt's ten candle pentane lamp and in making the test the burner shall be so used as to obtain from the gas when burned at the rate aforesaid the greatest amount of light Provided that the Board of Trade may on the application of the Company or the local authority approve the use of any other burner photometer or standard light which may appear to the Board to be equally or more suitable for the testing.

(3) The Company shall provide all the apparatus required by this Act for the testing of gas and shall at all times keep the same in proper order and repair.

34.—(1) All gas supplied by the Company to any consumer of gas shall be supplied at such pressure as to balance a column of water not less than eight tenths of an inch in height at the main or as near as may be to the junction therewith of the service pipe supplying the consumer.

Pressure.

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(2) Any gas examiner appointed under the Gasworks Clauses Act 1871 may for the purposes of this Act subject to the terms of his appointment at the testing place or at any public lamp as and when he thinks fit test the pressure at which the gas is supplied. The Company shall afford to the examiner all reasonable facilities for making the test.

Saving as to penalties.

35. No penalty shall be incurred by the Company for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was produced by any circumstance beyond the control of the Company. Provided that the want of sufficient funds shall not be held to be a circumstance beyond the control of the Company.

Power to supply gas fittings &c.

36. The Company may purchase sell let for hire fix repair and remove but shall not manufacture engines stoves ranges pipes and other gas fittings for lighting motive heating ventilating cooking or any other purposes and may provide all materials and work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon.

Charge for gas supplied by means of prepayment meters.

37.--(1) The Company may demand for any gas supplied through a prepayment meter a not greater charge than for gas supplied to private consumers within the Company's gas limits through any other kind of meter or by any other method of supply.

(2) The Company shall not charge for the hire of any prepayment meter and fittings to be used therewith any sum other than a sum of money calculated according to the quantity of gas supplied through such prepayment meter and the maximum sum to be so charged shall be at the rate of tenpence per one thousand cubic feet supplied in manner aforesaid such sum to include the hire of the meter and the fittings used therewith or at the rate of one shilling per one thousand cubic feet if such fittings include a cooking stove:

The said charge shall also include the providing letting fixing repairing and maintenance of the meter and fittings and the cost of collection and other costs incurred by the Company in connection with such meter and fittings.

(3) The maximum charge for the hire of a prepayment meter without fittings shall be at the rate of ten per centum per annum on the cost of the meter. A.D. 1912.

(4) For the purpose of this section the expression "prepayment meter" means any meter or appliance by which the quantity of gas supplied is regulated according to the amount of money prepaid therefor.

38. Notwithstanding anything contained in the Gasworks Clauses Act 1871 or any other Act a person shall not be entitled to demand from the Company a supply or the continuance of a supply of gas for premises having a separate supply of gas (that is to say a supply from an installation other than that of the Company) unless he shall have previously agreed to pay the Company such minimum annual sum as will give to them a reasonable return on the capital expenditure and standing charges incurred by them to meet the possible maximum demand for those premises and the minimum annual sum to be so paid shall be determined in default of agreement by arbitration in manner provided by the Arbitration Act 1889. Supply of gas when consumer has separate supply.

39. In order to enable the Company to ensure a satisfactory supply of gas to their consumers the following provisions shall have effect:— As to construction and placing of pipes &c. between mains and meters.

(1) The Company may specify the size and material of the pipes with the fittings thereof which are to be laid by the consumer on his own premises either in the first instance or on the occasion of any renewal between the Company's mains and the meter so far as such pipes and fittings are intended to be covered over:

(2) The Company may if they think fit make different specifications for different classes of premises having regard to the probable maximum consumption of gas thereon at any one time:

(3) The specification shall be published twice in some newspaper circulating within the Company's gas limits and a copy thereof shall be kept exhibited in the office of the Company:

(4) Every meter to be used in a new building or a building not previously supplied with gas or in connection with a new or substituted pipe laid by the consumer between the main and the consumer's meter shall be placed as near as reasonably practicable to the

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Company's main but within the outside wall of the building :

- (5) When any such pipe or meter as aforesaid has been laid or placed notice thereof shall be given to the Company and the pipe shall not be covered over until after the expiration of twenty-four hours from the service of such notice on the Company Any officer of the Company duly appointed may between nine o'clock in the morning and five o'clock in the afternoon attend and inspect such pipes (with their fittings) and meter and if the officer is not permitted to make the inspection or if the pipes or fittings are not according to the Company's specification or if the meter is not placed as required by this section the Company may refuse to supply gas to the premises until the provisions of this section have been complied with :
- (6) Any person to whom the Company refuses a supply of gas under the provisions of this section may appeal to a petty sessional court against such refusal and the court may after hearing the parties and considering any questions as to the reasonableness of the Company's specification make such order as seems to them proper in the circumstances and may order by which of the parties the costs of and incident to the appeal shall be paid.

Period of error in defective meters.

40. In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter The amount of the allowance to be made to or of the surcharge to be made upon the consumer by the Company shall be paid by or to the Company to or by the consumer as the case may be and shall be recoverable in the like manner as gas charges are recoverable by the Company.

Power to enter premises and remove fittings.

41. The power to enter premises and to remove pipes meters fittings or apparatus conferred upon the Company by section 22 of the Gasworks Clauses Act 1871 shall extend to all cases in which any person entering into occupation of any

premises previously supplied with gas by the Company shall not require to take a supply of gas from the Company or to hire from the Company all or any of the pipes meters fittings or apparatus belonging to the Company and let by them on hire to any former occupier of such premises. A.D. 1912.

42. Every consumer of gas supplied by the Company who uses a gas engine shall if required to do so by the Company use an effective anti-fluctuator together with an effective non-return valve and shall at all times at his own expense keep such anti-fluctuator and valve in proper repair and in default of his so using or keeping such anti-fluctuator and valve in proper repair the Company may cease to supply gas to such consumer The Company shall have access to and be at liberty to take off remove test inspect and replace any such anti-fluctuator and valve at all reasonable times such taking off removing testing inspecting and replacing to be done at the expense of the Company if the anti-fluctuator and valve be found in proper order but otherwise at the expense of such consumer. Power to require use of anti-fluctuators for gas engines.

43. The Company may lay down repair take up alter relay and renew mains pipes and culverts within the Company's gas limits for the purpose of procuring conducting or disposing of any oil or other materials used by them in or resulting from the manufacture of gas or any residual products thereof or for any purpose connected with their business and the provisions of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes and for the protection of pipes when laid so far as they are applicable for the purposes of this section shall extend and apply mutatis mutandis to and for the purposes thereof. Power to lay pipes for ancillary purposes.

44. At least twenty-four hours' notice shall be given to the Company by every gas consumer either personally at the office of the Company or in writing before he shall quit any premises supplied with gas by meter by the Company and in default of such notice the consumer so quitting shall be liable to pay to the Company the money accruing due in respect of such supply up to the next usual period for ascertaining the register of the meter on such premises or the date from which any subsequent occupier of such premises shall require the Company to supply gas to such premises whichever shall first occur Notice of the effect of this enactment shall be endorsed upon every demand note for gas charges payable to the Company. Gas consumers to give notice to Company before removing.

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Power to re-
fuse supply
to persons in
debt for
other pre-
mises.

45. If a person requiring a supply of gas from the Company has previously quitted premises at which gas was supplied to him by the Company without paying to them all gas charges and meter rent due from him to the Company they may refuse to furnish to him a supply of gas until he pays the same.

Notice to
discontinue
supply of
gas.

46. A notice to the Company from a consumer for the discontinuance of a supply of gas shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Company or be given by the consumer personally at the office of the Company.

Company
may contract
for supply of
gas in bulk.

47. The Company may contract with any local authority company or persons authorised to supply gas under parliamentary powers in any district adjacent to the Company's gas limits for the supply to them respectively of gas in bulk upon such terms and conditions and for such periods not exceeding in any case seven years from the making of the contract as may be agreed upon but nothing in this section shall authorise the Company to lay any mains or interfere with any street beyond the Company's gas limits.

PROTECTIVE PROVISIONS.

For protec-
tion of Essex
County
Council.

48. Notwithstanding anything contained in this Act or any enactment incorporated therewith the following provisions for the protection of the county council of the administrative county of Essex (in this section referred to as "the county council") shall unless otherwise agreed between the Company and the county council have effect with respect to any works constructed executed or laid down by the Company under the powers of this Act:—

(1) The Company shall not permit any trench made by them in any main road street bridge or other highway for the time being maintainable by the county council to be open for more than fifty yards in length at any place where only one cart can pass at the side of such trench or for more than one hundred yards in length at any place where only two carts can pass at the same time:

(2) Where any pipe conduit main or work of the Company (all of which are in this section included in the

expression "the works of the Company") is required to be laid or constructed beneath the surface of the roadway of any such road street bridge or highway as aforesaid the same shall be laid or constructed at such a depth as the county council may reasonably direct Any difference as to the reasonableness of any such direction shall be determined by arbitration as hereinafter in this section provided:

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- (3) If the county council shall for the purpose of repairing altering widening or rebuilding any such bridge as aforesaid at any time require the position or level of any of the works of the Company laid in under by the side of or attached to such bridge to be altered the Company shall at their own expense on receiving notice in writing under the hand of the clerk of the county council so to do alter the same as reasonably required by such notice and with all reasonable expedition and under the superintendence (if given) of an officer of the county council and any additional expense in relation to any such repairing altering widening or rebuilding as aforesaid to which the county council may be put by reason of the necessity for providing for any of the works of the Company shall be paid by the Company to the county council Provided that during the repairing altering widening or rebuilding of any such bridge the county council shall afford to the Company all reasonable facilities for temporarily carrying the works of the Company across any stream or river or provide such other means as may be necessary so as not to interrupt the continuous supply of water or gas as the case may be or to diminish the pressure of such supply through such works and any expense reasonably incurred by the county council in providing such facilities or other means as aforesaid shall be repaid to them by the Company Provided also that this section shall not extend to any such repairing altering widening or rebuilding as aforesaid which shall be required solely for the accommodation of any light railway tramway or trolley vehicle system belonging to the county council The Company shall also pay to the county

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council all reasonable expense actually incurred by them in relation to the superintendence by this subsection authorised. Any difference as to the reasonableness of any requirement contained in any such notice or of any facilities or means to be provided by the county council or as to the amount of any sum to be so paid by the Company to the county council shall be determined by arbitration as hereinafter provided:

- (4) Nothing in this Act shall interfere with the right of the county council to alter the level of deviate or improve in any manner they think fit any such road street or other highway in or along which the works of the Company shall have been laid and the Company shall forthwith on receiving notice in writing under the hand of the clerk or surveyor to the county council so to do alter the position of such works in the manner and to the extent prescribed by such notice or as in case of difference shall be determined by arbitration in manner hereinafter prescribed and the county council shall repay to the Company any reasonable expense which the Company may incur in effecting any alteration of their works under this subsection:
- (5) If the Company shall neglect to do or complete any work or act required by subsection (3) of this section to be done by the Company then and in any such case the county council may do such work or act themselves under the superintendence (if given) of the Company completing the same with all reasonable expedition and in a proper and workmanlike manner and causing as little damage or inconvenience to the Company as circumstances admit. The Company shall repay to the county council the reasonable cost of doing any such work or act and all proper costs charges and expenses incurred in connection therewith or occasioned by such neglect as aforesaid:
- (6) The county council shall not be liable to pay to the Company any compensation for injury to any of the works of the Company or for any loss to the Company which may be caused by or arise out of the doing by the county council in a proper and workmanlike manner of any work or act which the county

council may be authorised to do under subsection (5) A.D. 1912.
of this section :

- (7) Any difference by this section required to be determined by arbitration shall be determined by an engineer to be appointed (in default of agreement between the parties) by the President of the Institution of Civil Engineers on the application of either party and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such arbitration :
- (8) It shall not be lawful for the Company to supply water derived from any source in the county of Essex in bulk or otherwise beyond or for use beyond that county without the consent of the county council except only to ships or vessels resorting to the port of Harwich :
- (9) Notwithstanding anything in this Act the Company shall not without the consent of the county council supply water in bulk to the urban district council of Clacton unless and except during such period as the said district council afford a supply of water in bulk within the village of St. Osyth at a point within fifty yards of the existing main of the said district council to be determined by the county council at a price not exceeding the average price for the time being charged by the Company for water supplied to the said district council.

49.—(1) The Company shall construct—

- (A) so much of the Aqueduct No. 1 by this Act authorised as shall be necessary for the supply of Dedham village ;
- (B) a distributing main commencing in the said aqueduct at Dedham village passing Lamb Corner and Ardleigh Heath and through Ardleigh village to Ardleigh railway station ; and
- (C) a distributing main from Dedham to Dedham Heath ;

Company to execute certain works and supply therefrom within certain periods.

and shall afford a supply of water from the said aqueduct and each of the said distributing mains within five years from the passing of this Act.

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(2) The Company shall lay down an aqueduct or main through the village of Great Oakley and afford a supply of water therefrom within two years from the passing of this Act.

(3) The cost of the construction of the said aqueduct and the said distributing mains shall not be reckoned in arriving at the expense of providing and laying down pipes for the purpose of affording a supply for the purposes of section 35 of the Waterworks Clauses Act 1847 as amended by section 19 of the Act of 1901.

Provisions
where exist-
ing wells
affected.

50.—(1) If it shall be proved that the pumping by the Company at the Dedham pumping station by this Act authorised has caused any diminution of the supply in any well in the parish of Dedham existing at the time of the passing of this Act as an effective source of supply such well being situate within a radius of two miles from the said well and pumping station the Company shall (unless they make good such diminution or make compensation therefor under subsections (2) or (3) of this section) upon the written request of the owner of such well as aforesaid (in this section referred to as "the owner" which term shall include any lessee or occupier) afford to the owner a supply of water equal to the amount of such diminution as so proved at such cost or rate (if any) as that the total cost to the owner of obtaining his full supply shall be the same after as before the construction of such pumping station and upon such other terms as may be agreed or failing agreement may be settled by arbitration as hereinafter provided.

(2) The Company may if they think fit in lieu of affording a supply of water equal to the diminution of the supply in such well deepen the affected well or make such borings therein or headings therefrom as will increase the supply so as to make good the said diminution and the owner shall without making any charge therefor give the Company access and every facility for carrying out such deepening borings or headings and in the event of such deepening borings or headings increasing the cost to the owner of obtaining or continuing to obtain such supply the Company shall pay to the owner the amount of such increase.

(3) If the Company do not afford a supply equal to the diminution they shall make compensation in money to the owner for such diminution so far as the same is not made good by the

Company and they shall also make the like compensation for any injury caused to the owner by the exercise by the Company of the powers conferred by the last preceding subsection the amount of compensation to be settled in case of difference by arbitration as hereinafter provided. A.D. 1912.

(4) The Company shall not be liable in respect of any claim made by the owner under this section if he shall have failed to afford to the officers servants or other representatives of the Company at all reasonable times after the passing of this Act access to the well in respect of which the claim is made for the purpose of ascertaining particulars thereof and the level of the water therein.

(5) Any question or dispute arising under this section shall be referred to and determined by arbitration in manner provided by the Arbitration Act 1889 or any statutory modification thereof for the time being in force.

51. For the protection of the mayor aldermen and burghesses of the borough of Harwich the rural district council of Tendring and the rural district council of Lexden and Winstree respectively (each of whom in this section is included in the expression "road authority") the following provisions shall have effect with respect to any works constructed executed or laid down by the Company under the powers of this Act for the purpose of supplying water (that is to say):—

For protection of certain road authorities.

(1) All aqueducts conduits or lines of pipes to be laid in or along any road vested in or repairable by the road authority shall be laid in such position under or at the side of and at such depth as the road authority in writing under the hand of their surveyor may reasonably direct:

(2) The Company shall not open or break up at any one time a greater consecutive length of any such road than one hundred yards where only one cart can pass at the side of the trench nor shall any breaking up or opening be carried out without leaving a clear space of one hundred yards between such consecutive openings or breakings up unless with the consent of the road authority and all such works shall be proceeded with and completed with all reasonable dispatch:

(3) The notice required by section 30 of the Waterworks Clauses Act 1847 shall (except for laying connecting

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or repairing communication pipes and except in cases of emergency) be not less than in the case of a bridge or the approaches thereto fourteen days instead of three days and in other cases seven days instead of three days :

- (4) The plan required by section 31 of the last-mentioned Act shall whenever required by the road authority be accompanied by a section of the proposed works and shall (except as aforesaid) be delivered to the road authority or their surveyor by the Company not less than in the case of a bridge or the approaches thereto fourteen days and in other cases seven days before the Company commence to open or break up any road or interfere with any bridge or any approach thereto vested in or repairable by the road authority :
- (5) The provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall extend and apply to all roads vested in the road authority which shall be opened and broken up or interfered with by the Company in the construction of the aqueducts (Nos. 1 2 3 and 4) by this Act authorised :
- (6) Any portions of the aqueducts (Nos. 1 2 3 and 4) by this Act authorised which are required to be laid or constructed by the Company in or across any public bridge vested in or repairable by the road authority shall if it is reasonably practicable so to do and the road authority are able to give the necessary easement for the purpose be carried alongside of and attached to such bridge by means of wrought iron bands riveted to the bridge or by such other suitable means as may be agreed upon between the Company and the road authority or failing agreement be determined by arbitration under this section :
- (7) Nothing in this Act shall interfere with the right of any such road authority to alter the level of divert or improve in any manner they think fit any road along which any aqueduct conduit or line of pipes of the Company shall have been laid and the Company shall forthwith on receiving notice in writing under the hand of the clerk or surveyor to the road

authority alter the position of any such aqueduct conduit or line of pipes in the manner and to the extent prescribed by such notice or as in the case of difference may be determined by arbitration in manner hereinafter prescribed and the expenses of such alteration shall be repaid to the Company by the road authority : A.D. 1912.

- (8) Nothing in this Act shall interfere with the right of any such road authority at any time or times to remove alter repair or rebuild any public bridge vested in or repairable by such road authority or the approaches thereto over near or attached to which any aqueduct conduit or line of pipes of the Company is carried in the same manner as they might have removed altered repaired or rebuilt any such bridge or the approaches thereto if this Act had not passed and such aqueduct conduit or line of pipes had not been constructed or laid over near or attached to such bridge and in the event of any such bridge or the approaches thereto over near or attached to which such aqueduct conduit or line of pipes is laid being removed altered repaired or rebuilt as aforesaid the Company shall at their own cost make any necessary alteration of the position of such aqueduct conduit or line of pipes and any works by which such aqueduct conduit or line of pipes is carried over near or attached to such bridge or the approaches thereto as aforesaid Provided that during the removal alteration repairing or rebuilding of such bridge as aforesaid the road authority shall at the request of the Company afford all reasonable facilities for temporarily carrying such aqueduct conduit or line of pipes across the stream or river or provide such other means as may be necessary so as not to interrupt the Company's supply of water or diminish the pressure of such supply through such aqueduct conduit or line of pipes Provided also that in case any such removal alteration or rebuilding is required for the accommodation of any light railway tramway or trolley vehicle system of the road authority the road authority shall repay to the Company all expenses

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which the Company may reasonably incur in complying with the provisions of this subsection :

- (9) All works shall be so executed by the Company as not unnecessarily to stop or unreasonably impede or interfere with the traffic on any road vested in the road authority :
- (10) Any difference or dispute arising under this section between any road authority and the Company shall be referred to and determined by a single arbitrator to be agreed between the parties or in default of agreement to be appointed upon the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the Arbitration Act 1889 shall apply to any such arbitration.

For further
protection of
corporation
of Harwich.

52. For the further protection of the mayor, aldermen and burgesses of the borough of Harwich (in this section called "the corporation") the following provisions shall, unless otherwise agreed between the Company and the corporation have effect (that is to say) :—

- (1) The Company shall within three months after the passing of this Act lay a nine-inch main from their existing nine-inch main at or near the junction of Orwell Road Dovercourt with the main road between Dovercourt and Harwich to the south-eastern end of West Street Harwich and shall also within the said period and thereafter from time to time relay such of their mains and execute such other works as may be necessary to be relaid or executed to enable the Company to provide within the said borough a supply of water constantly laid on under pressure in accordance with the order dated the twenty-eighth day of July one thousand eight hundred and ninety-two and made by the Local Government Board under section 43 of the Act of 1884 :
- (2) If any difference shall arise between the corporation and the Company as to the necessity of any such relaying of mains or execution of works the same shall be referred to and determined by a single arbitrator to be agreed between the parties or in

default of agreement to be appointed upon the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the Arbitration Act 1889 shall apply to any such arbitration:

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- (3) From and after the twenty-fifth day of December which shall next happen after the expiration of the first complete financial year of the Company in which the Company shall have paid a dividend at the rate of eight per centum per annum upon their class "A" shares and class "B" shares respectively the rates to be charged by the Company for a supply of water for domestic purposes within the borough of Harwich shall be calculated as if the rateable value of the premises supplied were referred to in section 46 of the Act of 1884 instead of the annual rackrent or value of such premises:
- (4) The rateable value of any such premises as aforesaid shall be ascertained by the valuation list in force at the commencement of the quarter for which the rate accrues and if there is no such list in force by the last rate made for the relief of the poor. Provided that where the water rate is chargeable on the rateable value of a part only of any hereditament entered in the valuation list such rateable value shall be a fairly apportioned part of the rateable value of the whole tenement ascertained as aforesaid the apportionment in case of dispute to be ascertained by a court of summary jurisdiction.

53. Notwithstanding anything contained in this Act or any enactment incorporated therewith the following provisions for the protection of the Walton-on-the-Naze Urban District Council (in this section referred to as "the council") shall unless otherwise agreed in writing between the Company and the council have effect:—

For protection of
Walton-on-
the-Naze
Urban Dis-
trict Council.

- (1) All mains pipes or works to be laid in along or across any street road or bridge or any approach thereto under the jurisdiction of or maintainable by the council shall be laid in such position in or at the side thereof or in or under the footpath or pavement and at such depths as the council in writing under the hand of their surveyor may reasonably direct:

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- (2) All works shall be so executed as not in any way to stop or unreasonably to interfere with the traffic on any such street road or bridge or any approach thereto and all such works shall be proceeded with and completed with all possible dispatch :
- (3) In the application of the provisions of the Waterworks Clauses Act 1847 and of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the notice required by section 30 and section 8 of those Acts respectively shall (except for laying connecting or repairing communication pipes from the Company's main to the consumers premises and except in cases of emergency) be not less than seven days instead of three days :
- (4) When the Company shall have opened or broken up any such street road or bridge or any approach thereto they shall complete the work and reinstate and make good the same to the reasonable satisfaction of the council and where the street or road is ordinarily repaired by the use of a steam roller the reinstatement shall include the use of a steam roller not exceeding fifteen tons in weight on the places where the street or road has been broken up until the surface thereof has been made uniform with the unbroken surface adjoining :
- (5) If the Company shall neglect to reinstate and make good any street road or bridge in the manner required by this section then and in any such case the council may themselves reinstate and make good the same under the superintendence (if given) of the Company completing the same with all reasonable expedition and in a proper and workmanlike manner and the Company shall repay to the council all proper costs charges and expenses incurred by the council in connection therewith or occasioned by such neglect as aforesaid :
- (6) If the council shall for the purpose of repairing altering widening or rebuilding any such bridge as aforesaid at any time require the position or level of any of the works of the Company laid in under by the side of or attached to such bridge to be altered the

Company shall at their own expense on receiving notice in writing under the hand of the clerk of the council so to do alter the same as reasonably required by such notice and with all reasonable expedition and under the superintendence (if given) of an officer of the council. Provided that during the repairing altering widening or rebuilding of any such bridge the council shall afford to the Company all reasonable facilities for temporarily carrying the works of the Company across any stream or river or provide such other means as may be necessary so as to avoid the interruption of the continuous supply of water or gas (as the case may be) or to diminish the pressure of such supply through such works. Provided also that in case any such repairing altering widening or rebuilding as aforesaid shall be required for the accommodation of any light railway tramway or trolley vehicle system belonging to the council the council shall repay to the Company all expenses which the Company may reasonably incur in complying with the provisions of this subsection:

- (7) The Company shall within one month after the passing of this Act deposit at the office of the clerk to the council a plan of the existing gasworks on a scale of not less than sixteen feet to the inch and the council shall at all reasonable times after giving twenty-four hours' notice of their intention so to do be at liberty by their duly authorised officer to inspect the gasworks for the purpose of checking the said plan with reference to the proviso to section 17 of the Order of 1878 and to ensure the due observance by the Company of the provisions therein contained:
- (8) If any difference shall arise between the council and the Company under this section the same shall be determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party and subject thereto in accordance with the provisions of the Arbitration Act 1889.

54. Notwithstanding anything in this or any other Act contained the following provisions for the protection of the Great Eastern Railway Company (hereinafter called "the railway

For protec-
tion of Great
Eastern
Railway
Company.

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A.D. 1912. company") shall be in force and have effect and be binding on
the Company:—

(1) In laying down and in executing any works in connection with the laying down or the repair and renewal of any mains pipes or other works which the Company may by this Act be authorised to lay down and execute upon across over under or in any way affecting the railways lands or property now or hereafter belonging to or occupied by the railway company or the bridges approaches viaducts stations or other works or any level crossings of or repairable by the railway company the same shall be done under the superintendence and to the reasonable satisfaction of the principal engineer of the railway company and only (except in cases of emergency arising from defects in any of the mains pipes or other works) according to plans and sections to be previously submitted to and reasonably approved by him and in all things by and at the expense of the Company who shall also restore and make good the roads over any such bridges level crossings and approaches which the railway company is or may be liable to maintain and which may be disturbed or interfered with by or owing to any operations of the Company Provided always that if such principal engineer shall not approve or disapprove any such plans or sections so submitted to him within fourteen days after the same are delivered or shall refuse or neglect for the space of seven days after being requested so to do by the Company to superintend the work the Company may proceed with the work without the approval of the plans and sections and without the superintendence of the said engineer respectively :

(2) All such works matters and things shall be constructed executed and done so as not to cause any injury to such railways bridges level crossings approaches viaducts stations works lands or property or interruption to the passage or conduct of the traffic over such railways or at any station thereon and if any injury or interruption shall arise from or be in any way owing to any of the acts operations matters and things

aforesaid or the bursting leakage or failure of any such mains pipes or works under or near to any such bridge level crossing or other property the Company shall make compensation in respect thereof to the railway company the amount of such compensation together with full costs to be recoverable from the Company by all and the same means as any simple contract debt is recoverable:

A.D. 1912.

- (3) Any dispute or difference which may arise between the railway company and the Company under this section shall be settled by arbitration by an engineer or other fit person to be appointed in default of agreement between the parties by the President of the Institution of Civil Engineers on the application of either party and subject as aforesaid the Arbitration Act 1889 shall apply to any such arbitration.

FINANCIAL PROVISIONS.

55. The Company may apply for the purposes of this Act to which capital is properly applicable any money which they have already raised or are authorised to raise.

Application of existing authorised funds.

56. The Company may from time to time raise additional capital not exceeding in the whole one hundred and twenty thousand pounds by the creation and issue of new Class A shares or new Class B shares authorised by the recited Acts or wholly or partially by either of those methods but the Company shall not issue any share of less nominal value than ten pounds. Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce including the amount of any premium which may be obtained on the sale thereof the said sum of one hundred and twenty thousand pounds. Provided also that the Company shall not create a greater amount than sixty thousand pounds (nominal value) of such additional capital as Class A shares.

Power to raise additional capital.

57. Subject to the provisions of section 10 of the Act of 1884 with respect to the payment of dividends on Class A shares and Class B shares respectively the Company shall not in any one year make out of their profits any larger dividend on their capital by the recited Acts and this Act authorised

Limiting profits on capital.

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A.D. 1912. than eight pounds in respect of every one hundred pounds actually paid up of such capital, whether in Class A shares or Class B shares or in both classes.

New shares
to be sold by
auction or
tender.

58.—(1) All shares created under the powers of this Act shall be issued in accordance with the provisions of this section.

(2) All shares so to be issued shall be offered for sale by public auction or tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine Provided as follows:—

(A) Notice of the intended sale shall be given in writing to the town clerk of the borough of Harwich and the clerk to any urban or rural district council having jurisdiction within the Company's water limits or the Company's gas limits and to the secretary of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as the case may be and shall also be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the Company's water limits and the Company's gas limits:

(B) A reserve price shall be fixed and notice thereof shall be sent by the Company in a sealed letter to be received by the Board of Trade not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be:

(C) No lot offered for sale shall comprise shares of greater nominal value than one hundred pounds:

(D) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum In the case of a sale by auction a bid shall not be recognised unless it is in advance of the last preceding bid:

(E) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Company within three months after the date of the auction or of the acceptance of the tender as the case may be.

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(3) Any shares which have been so offered for sale and are not sold may be offered at the reserve price to the holders of shares of the Company in accordance with the provisions of sections 18 19 and 20 of the Companies Clauses Act 1863 and to the employees of the Company and to the consumers of water or gas supplied by the Company in such proportions as the Company may think fit or to one or more of these classes of persons only Provided in the case of an offer to holders of shares that if the aggregate amount of shares applied for shall exceed the aggregate amount so offered as aforesaid the same shall be allotted to and distributed amongst the applicants as nearly as may be in proportion to the amounts applied for by them respectively.

(4) Any shares which have been offered for sale in accordance with subsection (2) or with subsections (2) and (3) and are not sold shall be again offered for sale by public auction or by tender in accordance with the provisions of this section and any such shares then remaining unsold may be otherwise disposed of at such price and in such manner as the directors may determine for the purpose of realising the best price obtainable.

(5) As soon as possible after the conclusion of the sale or sales the Company shall send a report thereof to the Board of Trade stating the total amount of the respective classes of shares sold the total amount obtained as premium (if any) and the highest and lowest prices obtained for the respective classes of shares.

59. Except as by this Act otherwise provided the capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares were shares in that capital The capital in new shares so created shall form part of the capital of the Company.

Incidents of
new shares.

60. Subject to the provisions of this Act every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or

Dividends on
new shares.

[Ch. xlv.] *Tending Hundred Water and Gas* [2 & 3 GEO. 5.]
Act, 1912.

A.D. 1912. description proportioned to the whole amount from time to time called up and paid on such shares.

Power to borrow.

61. The Company may subject to the provisions of this Act borrow on mortgage of their undertaking any sum or sums not exceeding in the whole one-third part of the amount of the additional capital which at the time of borrowing has been raised under the powers of this Act but no sum shall be borrowed in respect of any capital so raised until the Company have proved to a justice of the peace before he gives his certificate under the fortieth section of the Companies Clauses Consolidation Act 1845 that the whole of the shares at the time issued together with the premium (if any) realised on the sale thereof have been fully paid up.

Borrowed money not to be converted into capital.

62. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the conversion of the borrowed money into capital shall cease to apply to the Company.

Appointment of receiver.

63. Section 28 (As to receiver) of the Act of 1901 is hereby repealed but without prejudice to any appointment heretofore made or to any proceedings pending at the passing of this Act.

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 and in order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than eight thousand pounds in the whole.

Power to create debenture stock.

64.—(1) The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 18 of the Act of 1884.

(2) Notice of the effect of the said section 18 shall be endorsed on all mortgages granted and certificates of debenture stock issued after the passing of this Act.

(3) The provisions of section 30 (Debenture stock) of the Act of 1901 from the word "Notice" to the end of the section are hereby repealed.

Priority of mortgages and debenture stock.

65. All money to be raised by the Company on mortgage or debenture stock after the passing of this Act under the

provisions of the Act of 1901 or this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act. Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or 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 their undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

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ture stock
over other
debts.

66. If any money is payable to a shareholder or mortgagee or debenture stock holder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Receipt in
case of per-
sons not sui
juris.

67. 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 shares under the provisions of this Act shall not be considered as part of the capital of the Company entitled to dividend.

Application
of moneys.

MISCELLANEOUS.

68. The following provisions of the Act of 1884 and the Act of 1886 are hereby repealed (viz.) :—

Repeal of
certain pro-
visions of
Acts of 1884
and 1886.

Act of 1884—

Section 16 (As to conversion of borrowed money into capital);

Section 25 (Qualification of directors);

Section 28 (Contracts not to disqualify for office of director);

Section 39 (Contracts between Company and other bodies for supply of water);

Section 55 (Company's officers to enter buildings);

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- Section 58 (Power to remove meters and fittings);
Section 59 (Meters not to be connected or disconnected without notice to Company);
Section 69 (Recovery of sums due);
Section 70 (Representation of the Company in bankruptcy &c.);
Section 72 (Liability to rate not to disqualify justices);
Section 73 (Contents of summons &c.);
Section 74 (Costs of distress):

Act of 1886—

- Section 21 (As to conversion of borrowed money into capital).

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

69. The Company may on the application of the owner or occupier of any premises abutting on or being erected in any street laid out but not dedicated to public use supply such premises (if the same be situate within the Company's water limits) with water and (if the same be situate within the Company's gas limits) with gas and for that purpose the Waterworks Clauses Acts 1847 and 1863 or as the case may be the Gasworks Clauses Acts 1847 and 1871 shall apply as if the street were a street within the meaning of those Acts.

Dwelling-houses for employees offices &c.

70. The Company may purchase or take on lease houses cottages and other buildings for persons in their employ and offices showrooms and other buildings for the purposes of their undertaking and may erect fit up maintain and let any such building upon any lands for the time being belonging or leased to the Company.

Company may sell lease &c. lands.

71. The Company may sell or demise and lease for any terms not exceeding twenty-one years or exchange or otherwise dispose of to such persons and in such manner as the Company think fit any lands and property for the time being belonging to the Company whether in connection with their water undertaking or their gas undertaking which they may not require for the purposes of such undertaking (subject nevertheless to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of superfluous lands so far as such provisions are in each case applicable) and they may make any such sale lease exchange or disposal subject to such reservations conditions and restrictions as they think fit.

72.—(1) Subject as hereinafter provided any gas or water meters fittings pipes engines stoves ranges valves cocks cisterns baths soilpans waterclosets apparatus receptacles instruments or things (in this section called “fittings”) let by the Company on hire under the provisions of this Act or the recited Acts or the Acts incorporated therewith respectively shall not be subject to distress or to the landlord’s remedy for rent or be liable to be taken in execution under process of any court or proceedings in bankruptcy against the persons in whose possession the same may be.

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Fittings not to be subject to distress and though fixed to premises to remain property of Company.

(2) Subject as hereinafter provided all fittings let by the Company on hire as aforesaid shall notwithstanding that they be fixed or fastened to any part of any premises in which they may be situate or to the soil under any such premises at all times continue to be the property of and removable by the Company Provided that nothing in this subsection shall affect the amount of the assessment for rating of any premises upon which any such fittings are or shall be fixed.

(3) The Company shall only be entitled to the privileges and exemptions conferred by this section in respect of such fittings as shall have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Company as the actual owners thereof.

73. The directors of the Company may close the register of transfers of debenture stock for a period not exceeding fourteen days previous to each date at which the interest thereon shall be payable And they may fix a day for closing the same of which seven days’ notice shall be given by advertisement in a newspaper published or circulating within the Company’s water limits and the Company’s gas limits And any transfer of debenture stock made during the time when the transfer books are so closed shall as between the Company and the person claiming under the same but not otherwise be considered as made subsequently to the payment of any such interest.

Closing register of transfers of debenture stock.

74. From and after the passing of this Act the qualification of a director of the Company shall be the possession in his own right of shares in the capital of the Company (whether of

Qualification of directors.

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A.D. 1912. Class A or Class B or both classes) of a nominal value of not less than one thousand pounds in the whole.

Contracts not to disqualify for office of director.

75. No person shall be disqualified from becoming or continuing a director of the Company by reason of his or any partners of his being or becoming interested in any contract with the Company either on his own behalf or as a member of any other company corporation local authority or partnership but no such person shall as a director vote in respect of any question as to any such contract or the remuneration attached to any such office or place of trust or profit.

Power to grant pensions &c.

76. The directors of the Company may subject to the approval of the Company in general meeting grant pensions and retiring or superannuation allowances to officers and servants of the Company. Such pensions and allowances shall be paid out of moneys received on revenue account after the payment of the interest on any Class A shares for the time being of the Company.

Power of directors to determine remuneration of secretary.

77. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary of the Company.

Auditors.

78.—(1) From and after the first ordinary meeting of the Company after the passing of this Act one at least of the auditors of the Company shall be a member either of the Institute of Chartered Accountants or of the Society of Incorporated Accountants and Auditors.

(2) Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 it shall not be necessary for any auditor of the Company who shall be a member either of the said Institute or the said Society to hold shares or stock in the Company.

(3) Subject as aforesaid the provisions of the Companies Clauses Consolidation Act 1845 relating to auditors shall apply to auditors of the Company.

Judges not disqualified.

79. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act or the recited Acts by reason of his being liable to any rate.

80. Where the payment of more than one sum by any person is due under this Act or any of the Acts or Orders relating to the Company any summons or warrant issued for the purposes of such Act or Order in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

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Contents of
summons &c.

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

Recovery of
demands.

82. 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.

Costs of Act.

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A.D. 1912. The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

DESCRIBING PROPERTIES WHEREOF PORTIONS ONLY MAY BE
REQUIRED BY THE COMPANY.

Nos. on deposited Plans.	Parish.	Description of Property.
1	Dedham - - -	Field and ditch.
1A	Ditto - - -	Bank and bed of River Stour.
2	Ditto - - -	Field and ditch.
3	Ditto - - -	Land farm building hay and corn ricks accommodation road and public foot- path.
4	Ditto - - -	Field and public footpath.
5	Ditto - - -	Field shed and hayrick.
2	Wix - - -	Field.
3	Great Oakley - -	Pond.

THE SECOND SCHEDULE.

PROVISIONS OF THE ORDER OF 1878 SAVED FROM REPEAL.

PART I.

Interpreta-
tion.

4. The several words and expressions to which by the Acts in whole or in part incorporated with this Order or with any part of this Order and by the Gas and Water Works Facilities Act 1870 meanings are assigned have in this Order or in such part of this Order the same respective meanings.

Limits of
Order.

5. The limits within which the provisions of this Order shall be in force and have effect (in this Order referred to as "the limits of supply") shall be the town and parish of Walton-on-the-Naze otherwise Walton-le-Soken and the parish of Frinton in the county of Essex.

PART II.

A.D. 1912.

7. The provisions of the Gasworks Clauses Act 1847 and of the Gasworks Clauses Act 1871 are hereby incorporated with this part of this Order except where the same are expressly varied by this part of this Order and the said provisions shall apply as well to the mains pipes and works of the Undertakers laid down or constructed for the supply of gas before the passing of the Act confirming this Order and situate within the limits of supply as defined by this Order as to any mains pipes or works which may be laid down or constructed under the authority of this part of this Order.

Incorporation
of Acts.

16. In addition to the lands shown on the deposited map and described in the schedule to this Order annexed the Undertakers may from time to time purchase by agreement and subject to the provisions of section 5 of the Gasworks Clauses Act 1871 may hold for any of the purposes of this part of this Order such lands as they may require provided that they shall not at any time hold for such purposes more than three acres in addition to the said lands shown and described as aforesaid.

Power to
purchase
additional
lands.

17. The Undertakers on the lands shown on the deposited map and described in the schedule to this Order annexed while they are possessed of the same may maintain and continue and from time to time alter retorts gasholders receivers purifiers meters apparatus and works for the manufacture and storing of gas and of coke and other residual products obtained in the manufacture of gas and matters producible therefrom and they may subject to the provisions of this part of this Order make gas and supply and sell the same within the limits of supply and may manufacture coal-tar coke pitch asphaltum and ammoniacal liquor oil and all other residual products obtained in the manufacture of gas and matters producible therefrom and may sell and dispose of the same at the works and elsewhere Provided that nothing hereinbefore contained shall authorise the Promoters to enlarge or extend their existing gasworks on the said lands or to store any coal-tar pitch asphaltum ammoniacal liquor oil or other residual products on the said lands.

Undertakers
may main-
tain and
continue gas-
works on
lands de-
scribed in
schedule and
may make
and sell gas
&c.

24. Where any money is deposited by any person by way of security with the Undertakers for the payment to them of all moneys which may become due to them by such person in respect of any supply of gas or of the purchase or hire of any meter the Undertakers shall pay interest at the rate of five pounds per centum per annum on every sum of ten shillings deposited by way of such security for every six months during which the same remains in their hands.

Undertakers
to pay inte-
rest on de-
posit.

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PART IV.

As to pipes crossing the works of a railway or other company.

55. If any difference arises between the Undertakers and any railway canal or other company whose land or works the Undertakers have power to cross under the authority of this Order for the purposes of meeting the demands for gas within the limits of supply as to the mode of laying down repairing altering or enlarging their mains pipes or works or the facilities to be afforded for the same the same shall be settled by an engineer to be appointed by the Board of Trade at the request of either party.

The SCHEDULE.

GAS LANDS.

Land situated on the south side of Station Road at Walton-on-the-Naze on the north-west of vacant ground belonging or reputed to belong to Peter Schuyler Bruff and others on the east of coal sheds and storehouses belonging to or reputed to belong to and occupied by William Hart and on the west of gardens at the rear of Spring Cottages and of land belonging or reputed to belong to the said Peter Schuyler Bruff and to the Walton-on-the-Naze Gas and Water Company Limited.

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