



CHAPTER xxviii.

An Act to empower the Tendring Hundred Waterworks Company to construct new waterworks and to raise additional capital and for other purposes.

[31st July 1947.]

WHEREAS the Tendring Hundred Waterworks Company (in this Act referred to as "the Company") were incorporated by the Tendring Hundred Waterworks Act 1884 and were by that Act and the Tendring Hundred Water and Gas Acts 1884 to 1921 empowered to supply water and gas within the respective limits in the county of Essex mentioned in the said Acts: 47 & 48 Vict.
c. ccxvi.

And whereas by the Tendring Hundred Water and Gas Act 1912 the Company were empowered to construct waterworks as in the said Act provided: 2 & 3 Geo. 5.
c. xlv.

And whereas it was thereby enacted that if the said waterworks were not completed within seven years from the passing of the said Act the powers thereby granted for executing the same should cease except as to so much thereof as was then completed:

And whereas owing to the wars of 1914-1918 and 1939-1945 and factors attributable thereto it has not been possible fully to carry out the said works and the powers for their construction have to that extent lapsed:

And whereas the demand for water within the area for the supply of water by the Company has increased and is increasing:

And whereas obligations of the Company with respect to the supply of water in bulk to the urban district council of Clacton (under an agreement and a supplemental agreement

dated respectively the twenty-eighth day of May one thousand nine hundred and twenty-nine and the ninth day of November one thousand nine hundred and thirty-six which are scheduled to and confirmed and made binding by the Clacton Urban District Council Act 1938 and sundry notices given in pursuance of the said agreement firstly above referred to) have been progressively increased and are being further increased:

And whereas it is expedient that the Company should be empowered to make and maintain the works in this Act described:

And whereas a statement of the share and loan capital of the Company showing the amounts which the Company are authorised to issue and borrow the amounts issued and borrowed and the amount remaining to be issued and borrowed by the Company is set forth in the schedule to this Act and it is expedient that the Company should be authorised to raise additional capital and to borrow further moneys for the purposes of their water and gas undertakings and that such other financial provision should be made as is in this Act contained:

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

And whereas plans and sections of the works authorised by this Act showing the lines and levels thereof and showing the lands required or which may be taken for the purposes or under the powers of this Act and a book of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited with the clerk of the county council of the administrative county of Essex and those plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference:

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

PART I.

PRELIMINARY.

1. This Act may be cited as the Tendring Hundred Water and Gas Act 1947 and the Tendring Hundred Water and Gas Acts 1884 to 1921 and this Act may be cited together as the Tendring Hundred Water and Gas Acts 1884 to 1947.

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

Part I.—Preliminary.

Part II.—Works and lands.

Part III.—Finance.

Part IV.—Miscellaneous.

PART I.
—cont.
Division of
Act into Parts.

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

Incorporation
of Acts.

The Lands Clauses Acts with the following exceptions and modification:—

(i) Sections 127 to 132 of the Lands Clauses Consolidation Act 1845 are not incorporated with this Act; 8 & 9 Vict. c. 18.

(ii) The bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section;

(iii) Section 5 of the Lands Clauses Consolidation Act Amendment Act 1860 is not incorporated with this Act; 23 & 24 Vict. c. 106.

The Companies Clauses Consolidation Act 1845 except section 40 and the provisions relating to the conversion of borrowed money into capital; 8 & 9 Vict. c. 16.

Part I (relating to cancellation and surrender of shares) and Part II (relating to additional capital) of the Companies Clauses Act 1863 as amended by subsequent Acts; 26 & 27 Vict. c. 118.

The following provisions of the Third Schedule to the Water Act 1945:— 8 & 9 Geo. 6. c. 42.

In Part II (Works and lands) section 8;

Part VI (Breaking open streets &c.);

In Part XVI (General and miscellaneous) section 92;

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and in such provisions for the purposes of this Act "the railway" means the well boreholes and pumping station by this Act authorised and so much of any aqueduct by this Act authorised as will not be constructed in a highway and "the centre of the railway" means the centre line of so much of any aqueduct as aforesaid. 8 & 9 Vict. c. 20.

PART I.
—cont.
Interpretation.

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

“ the Company ” means the Tendring Hundred Waterworks Company;

“ the new works ” means the works described in the section of this Act of which the marginal note is “ Power to construct waterworks ”;

“ the water undertaking ” means the water undertaking of the Company for the time being authorised;

“ the gas undertaking ” means the gas undertaking of the Company for the time being authorised;

“ the undertaking ” means the water undertaking and the gas undertaking;

“ the directors ” means the directors of the Company;

“ the Act of 1912 ” means the Tendring Hundred Water and Gas Act 1912;

“ the Act of 1921 ” means the Tendring Hundred Water and Gas Act 1921.

11 & 12 Geo. 5.
c. xxxii.

PART II.

WORKS AND LANDS.

Power to
construct
waterworks.

5. Subject to the provisions of this Act the Company may in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections make and maintain the following new works 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 said new works as they may require The new works will be situated in the county of Essex and are—

Work No. 1 A well boreholes and pumping station (to be called “ the Dedham pumping station. ”) in the rural district of Lexden and Winstree in the enclosure numbered on the 1/2500 ordnance map of Essex sheet No. XIX.13 (edition of 1923) 175 in the parish of Dedham;

Work No. 2 An aqueduct (consisting of a line or lines of pipes in the parish of Dedham and the parishes of Lawford and Little Bromley in the rural district of

Tending) commencing at or in the Dedham pump-
ing station by this Act authorised and terminating
by a junction with the Company's existing main in
the road leading from Manningtree to Chequers
Wood in the parish of Little Bromley.

PART II.
—cont.

6.—(1) In addition to the new works the Company may subject to the provisions of this Act in or upon any lands delineated on the deposited plans make and maintain all such works buildings machinery and apparatus of whatever character as may be necessary or convenient in connection with or subsidiary to the new works or any of them or the undertaking or necessary or expedient for augmenting or improving the supply of water but nothing in this section shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them: Subsidiary works.

Provided that any electrical works and apparatus made or maintained under the provisions of this section shall be so constructed maintained and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line. 41 & 42 Vict.
c. 76.

(2) The Company shall not under the powers of this section construct any works for taking or intercepting water otherwise than in connection with the new works.

7. Notwithstanding anything in this Act the exercise by the Company of the powers of this Act with respect to the construction of works and taking and use of lands shall be subject to the following limitations and conditions:— As to exercise
of certain
powers.

(1) (i) In the lands numbered on the deposited plans 5 in the parish of Dedham (in this section called "the Company's meadow")—

(a) the number of new boreholes from which water may be taken shall not exceed four;

(b) the buildings (other than such temporary structures as may be reasonably required for the purpose of the construction of the said boreholes and other than such temporary structures as may be required for the abstraction of water from the existing borehole for a period of three years from the passing of this Act) shall not exceed five being such buildings as are required for housing the machinery provided in connection with the new boreholes (the dimensions of which shall not exceed a length of 15 feet a width of 15 feet and

PART II.
—cont.

a height of 15 feet to the eaves) and a pump-house (the dimensions of which shall not exceed a length of 48 feet a width of 21 feet and a height of 21 feet to the eaves) Provided that the Company (if they think fit) may provide accommodation for the machinery provided in connection with one of the said boreholes in the said pump-house and if this course is adopted the dimensions of the said pump-house shall not exceed a length of 63 feet a width of 21 feet and a height of 21 feet to the eaves;

(c) the design external appearance and detailed siting of any permanent buildings and above ground works shall (subject as hereinafter provided) be agreed between the Company and the county council of the administrative county of Essex (in this section referred to as "the county council") the Dedham Vale Society and the rural district council of Lexden and Winstree Provided always that the pump-house shall be sited as near as may be to the farm buildings in the enclosure numbered on the deposited plans 3 in the parish of Dedham and the said boreholes shall be sited as near as may be along the boundaries of the Company's meadow;

(d) no motive power other than electricity shall be used at or in connection with the said boreholes and pump-house and all machinery used thereat shall be effectively silenced;

(e) the Company shall not construct any new road Provided always that nothing in this paragraph shall prohibit the Company from constructing an access road not exceeding 10 feet in width to the said pump-house from the north end of the existing farm road leading from Dedham High Street to Bridges Farm;

(f) any tanks shall be so constructed that no part of the upper surface thereof is raised above the surface of the ground;

(g) no electric lines shall be laid or placed above the surface of the ground;

(h) no permanent works whatsoever other than those specifically mentioned in this paragraph shall be constructed above ground;

(ii) (a) If either the county council or the Dedham Vale Society or the rural district council of Lexden and Winstree shall fail within the space of

twenty-eight days after the receipt by them of an application to them by the Company to signify in writing their agreement with the design external appearance and detailed siting of the permanent buildings and above ground works under sub-paragraph (i) (c) of this subsection as submitted with such application they shall be deemed to have agreed therewith;

(b) If either the county council or the Dedham Vale Society or the rural district council of Lexden and Winstree within the space of twenty-eight days as aforesaid shall disagree with the design external appearance or detailed siting of such buildings and above ground works and the parties fail to agree the same within twenty-one days after notice of such disagreement or within such extended time as may be agreed upon between them then the design external appearance and detailed siting of such buildings and above ground works shall be such as may be approved by the Minister of Town and Country Planning after consultation with the Minister of Health:

(2) In the lands numbered on the deposited plans 1 1A 2 3 and 4 in the parish of Dedham—

(a) the number of boreholes from which water may be taken shall not exceed two and the buildings to be erected thereat shall not exceed a length of 15 feet a width of 15 feet and a height of 15 feet to the eaves. The said boreholes shall be situate (i) within 20 feet of the south-eastern corner of the said lands numbered 2 and (ii) within 20 feet of the south-western corner of the enclosure numbered on the deposited plans 1 in the parish of Dedham;

(b) the design external appearance and detailed siting of any permanent buildings and above ground works shall (subject as hereinafter provided) be agreed between the Company the county council the Dedham Vale Society and the rural district council of Lexden and Winstree;

(c) the provisions of paragraph (ii) of subsection (1) of this section shall apply to buildings and works to be executed under this subsection;

(d) the powers of the Company for the compulsory purchase of land shall not be exercised

PART II.
—cont.

except so far as will enable the Company to acquire—

(i) the sites for the boreholes not exceeding in each case 400 square feet;

(ii) easements of access (not exceeding 10 feet in width) to the boreholes and any easements necessary to enable the Company to lay and maintain under the said lands electric lines and a line or lines of pipes from each borehole and to make and maintain adits at a depth of not less than 60 feet under the said lands;

(e) no motive power other than electricity shall be used at or in connection with the said boreholes and all machinery used thereat shall be effectively silenced;

(f) no electric lines shall be laid or placed above the surface of the ground:

(3) The Company shall if so required by the county council or the Dedham Vale Society or the rural district council of Lexden and Winstree plant and maintain suitable trees or shrubs to screen any buildings or above ground works and spread all spoil or excavated material obtained in the erection or making thereof and effectively sow the same with grass seed:

(4) In this section the expression "Dedham Vale Society" means the society formed in the year 1938 to preserve and safeguard the amenities and artistic associations of Dedham Vale or any body or authority to or by whom the functions of the said society are for the time being transferred or exercised.

8.—(1) The Company shall endeavour to acquire by agreement or compulsorily the northern portion (not exceeding three and a half acres in extent) of the enclosure numbered 639 in the parish of Dedham on the 1/2500 ordnance map of Essex sheet No. N.XXIX.2 (edition of 1923) as the site (hereinafter called "the Hill Farm site") for a pumping station and treatment works at which the water derived from the Dedham pumping station will be treated and pumped when one or more of the new boreholes to be sunk under the powers of this Act are brought into use.

(2) In the event of the acquisition by the Company of the Hill Farm site the following provisions shall apply with respect thereto:—

(a) the buildings shall be confined to those reasonably required for the aeration of the water the housing of

any treatment and softening plant and for the housing of the pumping machinery and electrical apparatus in connection therewith;

- (b) the pumping machinery shall be electrically operated with energy from an outside source as the normal supply Diesel engines may be installed and used to provide electrical energy during the hours when such energy is not available to the Company on the terms charged by the electricity undertakers during off-peak periods or when the outside supply is not available and current may be generated by means of the said diesel engines for use at the Dedham pumping station at such periods All plant shall be effectively silenced;
- (c) the lands shall not be used for the disposal of chalk produced in the process of softening the water;
- (d) sub-paragraph (i) (c) other than the proviso and paragraph (ii) of subsection (1) and subsections (3) and (4) of the section of this Act of which the marginal note is " As to exercise of certain powers " shall extend and apply to the buildings and works on the said site;
- (e) no electric lines shall be laid or placed above the surface of the ground (i) on the Hill Farm site or (ii) between the Hill Farm site and the lands referred to in the section of this Act of which the marginal note is " As to exercise of certain powers ".

9.—(1) If the Minister of Health on the application of the county council of the administrative county of Essex or the Company shall so require the Company shall within a period of three years from such requirement install and bring into use plant and apparatus for ensuring that all water supplied for domestic purposes by the Company from their existing Lawford pumping station or from the Dedham pumping station shall not have a hardness exceeding one hundred and eighty parts per million that is to say the calcium and magnesium content of such water expressed as calcium carbonate shall not exceed one hundred and eighty parts per million.

As to hardness
of water
supplied by
Company.

(2) As from the date of bringing into use of the said plant and apparatus the water supplied for domestic purposes by the Company from their said stations shall not at any time save in case of accident breakdown or any other cause beyond the control of the Company exceed the said degree of hardness.

PART II.
—cont.

(3) If the Company supply any water in contravention of the provisions of this section they shall be liable on conviction on information laid by or on behalf of the council of any county or county district having jurisdiction within the limits for the time being for the supply of water by the Company to a penalty not exceeding ten pounds for every day on which such contravention occurs. Provided that the Company shall not be liable to more than one penalty in respect of one and the same contravention.

(4) Expenditure incurred by the Company in complying with the provisions of this section shall be deemed to be a circumstance affecting the undertaking for the purposes of section 28 (Revision of rates) of the Act of 1921 and shall be taken into account by the Minister of Health on the consideration by him of any application made to him under section 40 (Power of Minister to revise water rates and charges) of the Water Act 1945.

As to provision
of draw-off
taps.

10. The Company shall provide and maintain draw-off taps from which water pumped from their existing Lawford pumping station and from the Dedham pumping station can be drawn after it has been softened pursuant to the section of this Act of which the marginal note is "As to hardness of water supplied by Company" and from which taps the medical officer of health for the council of any county or county district having jurisdiction within the limits for the time being for the supply of water by the Company or any person authorised in writing by any such medical officer shall be entitled at any time to take samples of water for examination and the taking of any such sample and the hours and date of such taking shall be immediately thereafter communicated to the Company and duplicates of every such sample handed to them.

Power to
deviate.

11. In the construction of the new works the Company may subject to the provisions of this Act deviate laterally to any extent within the limits of deviation shown on the deposited plans and where in any street no such limits are shown the boundaries of the street (including for this purpose any roadside waste forming part of or adjoining the street) 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 3 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 except so far as is shown on the deposited sections.

12. If the new works are not completed on or before the first day of October one thousand nine hundred and fifty-three then as from that date the powers by this Act granted for the making of the said works or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed:

PART II.
—cont.
Period for completion of works.

Provided that subject to the provisions of the section of this Act of which the marginal note is "As to exercise of certain powers" the Company may extend enlarge alter reconstruct renew or remove any of the new works and in the case of the boreholes and aqueduct sink or lay down additional boreholes or lines of pipes as and when occasion may require.

13. 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.

14.—(1) The Company may in lieu of acquiring any lands for the purposes of so much of the works by this Act authorised as will be laid underground acquire such easements and rights in such lands as they may require for the purpose of constructing placing laying inspecting maintaining cleansing repairing conducting managing renewing or enlarging such works and may give notice to treat in respect of such easements and rights and may in such notice describe the nature thereof and the provisions of the Lands Clauses Acts shall apply to such easements and rights as fully as if the same were lands within the meaning of such Acts.

Power to acquire easements only.

(2) As regards any lands used by the Company for the purpose of any such works which are laid underground the Company shall not (unless they give notice to treat for such lands and not merely for easements therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been used by the Company.

(3) Provided always that (except as to land forming part of a street) 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 (except as aforesaid) every notice to treat for the acquisition of an easement shall be endorsed with notice of this proviso.

PART II.

—cont.

Application of section 50 of Act of 1912.

15. The provisions of section 50 (Provisions where existing wells affected) of the Act of 1912 shall extend and apply to the well boreholes and pumping station (Work No. 1) by this Act authorised as if those provisions were re-enacted in this Act and as if a reference to the passing of this Act was substituted for the reference to the passing of the Act of 1912.

Application of section 45 of South Essex Waterworks Act 1935.

25 & 26 Geo. 5. c. xlviii.

16. For the purposes of section 45 (For protection of Tendring Hundred Waterworks Company) of the South Essex Waterworks Act 1935 the expression "the Dedham pumping station" means the well boreholes and pumping station (Work No. 1) by this Act authorised and includes all wells boreholes or other works for the abstraction of water within the limits of deviation for the said Work No. 1 shown upon the deposited plans and all pumping machinery works and apparatus from time to time used in connection therewith and subject thereto the said section shall remain and be of full force and effect as if this Act had not been passed.

Power to take waters.

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

Correction of errors in deposited plans and book of reference.

18.—(1) If there is any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof.

(2) If on any such application it appears to the justices that the omission or misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described.

(3) Such certificate or a copy thereof shall be deposited with the clerk of the county council of the administrative county of Essex and a duplicate thereof shall be deposited in a case where the lands are situate in the rural district of Lexden and Winstree with the clerk of the council of the rural district of Lexden and Winstree and in a case where the lands are situate in the rural district of Tendring with the clerk of the council of the rural district of Tendring and thereupon the deposited plans and book of reference shall be deemed to be

corrected according to the certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with the certificate.

(4) Such certificate or copy and duplicate respectively shall be kept by such clerks respectively with other documents to which the same relate.

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

(2) The Company shall provide reasonable access for foot passengers and so far as practicable for vehicular traffic bona fide going to or from any such house building or land.

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

(4) The provisions of this section so far as they relate to the stopping up or diversion of any county road shall not be exercised without the consent of the highway authority.

20. The works by this Act authorised shall for all purposes whatsoever form part of and be comprised in the water undertaking. Works to form part of water undertaking.

21. Notwithstanding anything in this Act the following provisions for the protection of the River Stour (Essex and Suffolk) Catchment Board (hereinafter called "the Stour Catchment Board") shall unless otherwise agreed in writing between the Company and the Stour Catchment Board apply and have effect:— For protection of Stour Catchment Board.

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

"the Stour area" means the river Stour (Essex and Suffolk) catchment area as for the time being constituted;

"drainage authority" means a drainage board constituted or to be treated as having been constituted under the Land Drainage Act 1930 and having jurisdiction in the Stour area including the Stour Catchment Board itself; 20 & 21 Geo. 5. c. 44.

"banks" has the same meaning assigned to that expression by the Land Drainage Act 1930 or any statutory amendment thereof;

PART II.
—cont.

“ watercourse ” includes—

(i) any main river or any other river and any stream ditch drain cut culvert dyke sluice sewer or passage through which water flows and the banks thereof;

(ii) any drainage work and the banks thereof;

under the jurisdiction of any drainage authority;

“ apparatus ” includes any structure or appliance for controlling or regulating the flow of water in any watercourse and any machinery under the control of any drainage authority;

“ bridge ” means any bridge vested in or under the control of any drainage authority;

“ authorised work ” means a work authorised by this Act to be executed:

- (2) Save as expressly provided by this Act nothing in this Act shall take away affect prejudice or diminish any right interest power or jurisdiction of the Stour Catchment Board or any other drainage authority under any Act or Order relating to them but nothing in this subsection shall be construed as taking away affecting prejudicing or diminishing any protection conferred on the Company by the Land Drainage Act 1930 or any right of the Company under that Act:
- (3) In the execution of any authorised work the Company shall not diminish the width between the banks of any watercourse except with the consent of the Stour Catchment Board which shall not be unreasonably withheld:
- (4) Subject to the provisions of this section and except with the consent of the Stour Catchment Board (which shall not be unreasonably withheld) the Company shall not execute any authorised work which affects any watercourse otherwise than—
- (a) in such manner as not to interrupt the free passage of water through or in such watercourse; and
- (b) (i) in such manner as to allow the free passage of flood waters under the work; or
- (ii) so that the top or surface of the work shall be situate at such depth below such watercourse as to allow of the proper cleansing and scouring of such watercourse and of the deepening of the bed thereof to such extent as may be reasonably necessary for the improvement of such watercourse:

(5) (a) The Company before commencing to execute so much of any authorised work as will be situate in over or under or as might interfere with or affect any watercourse apparatus or bridge shall submit to the Stour Catchment Board plans and sections and (when reasonably required by the Stour Catchment Board) working drawings thereof for their reasonable approval. If the Stour Catchment Board do not within twenty-eight days after the submission to them of any such plans sections and drawings signify to the Company in writing their approval or disapproval thereof they shall be deemed to have approved thereof;

(b) Such portion of the authorised work shall not be executed otherwise than in accordance with such plans sections and drawings (if any) as may be approved by the Stour Catchment Board or if such approval be withheld as may be settled by arbitration as hereinafter provided and shall be executed to the reasonable satisfaction of the Stour Catchment Board and under the superintendence of the engineer to the Stour Catchment Board if the engineer elect to superintend after receiving notice of the date when the work is to be commenced:

(6) The Company shall at all reasonable times afford to the engineer of the Stour Catchment Board or his duly authorised representatives access to any authorised work which is situate in over or under or affects any watercourse apparatus or bridge for the purpose of inspection:

(7) The Company shall at all times keep the Stour Catchment Board and any other drainage authority indemnified against all damages losses costs and expenses which they may sustain or be liable for or reasonably incur by reason or in consequence of any injury or damage which may be caused or result to any watercourse apparatus or bridge or any obstruction which may be caused or result in any watercourse by or in consequence of or in connection with the execution of any authorised work:

(8) Any matter or thing by this section referred to or required to be settled by arbitration and any dispute or differences which may arise under this section between the Stour Catchment Board or their engineer and the Company (save as to the construction of this section) shall be settled by arbitration:

PART II.
—cont.

- (9) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act enuring for the protection or benefit of the Stour Catchment Board or any other drainage authority.

For protection
of river Stour.

22. 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 Essex
County
Council.

23. The provisions of section 48 (For protection of Essex County Council) of the Act of 1912 shall extend and apply to this Act as if those provisions were re-enacted in this Act.

For protection
of Colchester
Corporation.

24. The following provisions for the protection of the Colchester Corporation (in this section referred to as "the corporation") shall unless otherwise agreed in writing between the Company and the corporation apply and have effect in relation to the exercise by the Company of the powers of this Act with regard to the construction of the aqueduct Work No. 2 by this Act authorised (that is to say):—

- (1) In this section the terms "electric line" and "work" have the same respective meanings as in the Electric Lighting Act 1882 and references to the alteration of electric lines or works include references to diversion and to alterations of position and level:
- (2) Not less than twenty-eight days before commencing to construct the said aqueduct or any portion thereof the Company shall serve on the corporation notice in writing of their intention so to commence with particulars of the proposed works and of the manner in which they are to be executed together where necessary with plans and sections thereof:
- (3) Where the removal or alteration of electric lines or works belonging to the corporation or the provision of substituted apparatus whether permanent or temporary is in the opinion of the corporation reasonably necessary or expedient by reason of any proposal to construct the aqueduct or any portion thereof of which notice is given under subsection (2) of this section the corporation may within fourteen days of receiving the notice serve a counter-notice in writing on the Company declaring their intention of removing or altering the electric line or work

45 & 46 Vict.
c. 56.

or providing substituted apparatus and unless it is agreed between the Company and the corporation that the Company shall carry out the operations of removal alteration or substitution the Company shall give the corporation reasonable facilities for carrying out the operations at whatever time during the construction of the aqueduct or any portion thereof is most convenient for such operations:

- (4) The said aqueduct where the same shall be constructed in proximity to any electric line or work belonging to the corporation shall be constructed and maintained to the reasonable satisfaction of the corporation and so as not to affect injuriously any electric line or work of the corporation and in the event of any injury being occasioned to the electric line or work by the construction maintenance user or removal of the aqueduct or in the event of the corporation having to provide substituted apparatus the corporation may make good the injury or provide the substituted apparatus and recover from the Company the reasonable expense of so doing:
- (5) The Company shall not in the construction maintenance user or repair of the said aqueduct or any portion thereof obstruct or interfere with the free uninterrupted and safe user of any electric line or work belonging to or maintainable by the corporation:
- (6) The Company shall be responsible for and make good to the corporation all losses damages and expenses which may be occasioned to the corporation by or by reason of the construction or failure of the said aqueduct or by reason of any act default or omission of the Company or of any person in their employ or of any contractors for the construction of the said aqueduct or any portion thereof and the Company shall effectually indemnify and hold harmless the corporation from all claims and demands upon or against them by reason of such construction or failure or of any such act default or omission:
- (7) If any difference arises under this section between the Company and the corporation the same shall be settled by an arbitrator to be agreed upon between the parties or failing agreement appointed on the application of either party after notice in writing to the other by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

PART II.

—cont.

Saving for town and country planning.

25.—(1) The provisions of the Town and Country Planning Acts and of any order scheme or regulation made under those Acts or under any enactment repealed by those Acts so far as those provisions are from time to time in force in respect of the land on which any development within the meaning of those Acts is carried out under this Act shall apply to that development.

(2) In this section the expression “Town and Country Planning Acts” means—

7 & 8 Geo. 6.

c. 47.

9 & 10 Geo. 6.

c. 68.

(a) the Town and Country Planning Acts 1932 and 1943 the Town and Country Planning Act 1944 and the New Towns Act 1946; and

(b) any public general Act passed or to be passed in the present session repealing amending or extending the provisions of those Acts.

• Saving for Restriction of Ribbon Development Act 1935.

25 & 26 Geo. 5.

c. 47.

26. Nothing in this Act shall authorise the development of any land or the erection of any buildings or the execution of any works in contravention of the provisions of the Restriction of Ribbon Development Act 1935.

PART III.

FINANCE.

Additional capital.

27.—(1) The Company may from time to time raise additional capital not exceeding in the whole two hundred and fifty thousand pounds by the creation and issue of new ordinary shares or preference shares or wholly or partly by one or more of those modes respectively:

Provided that it shall not be lawful for the Company—

(a) to issue any shares of less nominal value than ten pounds; or

(b) to create and issue under the powers of this section any greater nominal amount of additional capital than shall be sufficient to produce including any premiums and allowing for any discounts which may be obtained or allowed on the issue thereof the sum of two hundred and fifty thousand pounds.

(2) Any sum so raised may be applied to the purposes of the water undertaking or of the gas undertaking (being purposes to which capital is properly applicable) as the Company may determine.

24 & 25 Geo. 5.
c. 28.

(3) Subject to the provisions of section 1 of the Gas Undertakings Act 1934 as applied by this Act section 58 (New shares to be sold by auction or tender) of the Act of 1912 as

amended by section 16 (Amendment of section 58 of the Act of 1912) of the Act of 1921 shall apply to the additional share capital authorised by this section.

PART III.
—cont.

28. 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 (but not so as to prevent the Company from creating new shares bearing rates of dividend different from the rates of dividend borne by existing shares) 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:

New shares to be subject to same incidents as existing shares.

Provided that except as may be otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares to which a preferential dividend shall be assigned.

29. The Company shall not in any one year pay out of their profits any larger dividend on any additional capital raised under the powers of this Act than five pounds in respect of every one hundred pounds of such capital as shall be issued as new ordinary capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend in respect of such capital which shall have fallen short of the said sum of five pounds per centum per annum during the last five years before the year in respect of which the dividend is being paid nor than five pounds in respect of every one hundred pounds of such capital as shall be issued as preference capital.

Limit of dividend on additional capital.

30. The new ordinary shares issued under the powers of this Act shall rank equally up to five pounds per centum per annum with the existing ordinary shares of the Company and section 7 (Ranking of ordinary shares for dividend) of the Act of 1921 shall be read and have effect accordingly.

Ranking of new ordinary shares for dividend.

31. The Company may carry forward at the end of any year to the credit of the profit and loss account (net revenue) of the undertaking any sum not exceeding the total of the following amounts (that is to say):—

Application of excess of profits over authorised rates of dividend.

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

(b) An amount equal to the total sum which the Company will require for payment of dividend at the maximum rates on their preference and ordinary capital in respect of the next following year; and

PART III.
—cont.

(c) An amount equal to the total sum which the Company will be required to pay during the next following year as interest on any mortgages or debenture stock.

Power to borrow.

32. The Company may borrow on mortgage of the undertaking in respect of the additional capital authorised by this Act any sum or sums not exceeding in the whole fifty per centum of the amount (including premiums and allowing for discounts) which at the time of borrowing has been raised by the issue of such capital but no sum shall be borrowed in respect of any such capital until the Company have proved to a justice of the peace before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the amounts payable in respect of such capital at the time issued together with the premium (if any) realised on the issue thereof has been fully paid up.

Priority of money raised on mortgage over other debts.

33. All money to be raised by the Company on mortgage under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act:

Provided always that this priority shall not affect any claim against the Company or their property in respect of any rent-charge granted or to be granted by them in pursuance of the Lands Clauses 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:

19 & 20 Geo. 5.
c. 28.

Provided also that nothing in this section shall affect the provisions of section 264 (Preferential payments) of the Companies Act 1929.

Existing mortgages to have priority.

34. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act before the passing of this Act and subsisting at the passing of this Act shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgage granted by the Company after the passing of this Act.

Application of certain provisions of Gas Undertakings Act 1934.

35.—(1) The following provisions of the Gas Undertakings Act 1934 (in this section called "the Act of 1934") shall extend and apply to any ordinary or preference capital of the Company created or to be issued or to be offered for subscription for the purposes of the water undertaking or of the gas undertaking and the water undertaking in like manner as they extend and apply to any share capital (as defined by

the Act of 1934) of the Company created or to be issued or to be offered for subscription for the purposes of the gas undertaking (that is to say):—

Subsections (1) (2) (3) and (4) of section 1 (Issue of share capital by undertakers);

Subsections (1) and (3) of section 3 (Power for certain undertakers to pay underwriting commission).

(2) (a) Section 4 of the Act of 1934 shall extend and apply to the issue so as to be redeemable of preference capital or debenture stock created by the Company for the purposes of the water undertaking or of the gas undertaking and the water undertaking in like manner as they extend and apply to any preference capital or debenture stock created by the Company for the purposes of the gas undertaking and the directors may subject to and in accordance with the provisions of the said section and of the First Schedule to the Act of 1934 issue so as to be redeemable any preference capital or debenture stock created by the Company.

(b) Section 10 (Redeemable preference shares and debenture stock) of the Act of 1921 is hereby repealed.

36.—(1) The Company may borrow or raise moneys for the purposes of meeting their obligations and carrying out their duties under the Tendring Hundred Water and Gas Acts 1884 to 1947 on temporary loans by means of overdrafts from bankers or otherwise. Provided that the aggregate amount outstanding at any time of the moneys so borrowed or raised shall not exceed fifty thousand pounds.

Company may incur temporary loans.

(2) The power conferred by this section shall be in addition to any power for the time being of the Company to borrow on mortgage or to raise moneys by the creation and issue of debenture stock.

37. All moneys raised under this Act including premiums shall be applied only to purposes to which capital is properly applicable.

Application of moneys.

38.—(1) The Company may subject to the provisions of this section by setting apart in any year out of revenue such sums as they think fit form and maintain—

Reserve and contingency funds.

(a) a reserve fund for the purpose of making good any deficiency which may at any time occur in the amount of divisible profits or of meeting any extraordinary claim or demand which may at any time be made upon them;

PART III.
—cont.

(b) a contingency fund for the purpose of meeting contingencies or defraying the cost of renewing repairing enlarging or improving any part of the works forming part of the undertaking.

(2) Any sums so set apart for the formation or maintenance of a reserve or contingency fund may from time to time be invested in securities in which trustees are authorised to invest trust moneys and subject to the provisions of the next but one succeeding subsection the dividends and interest arising from such securities may be invested in the same or like securities so as to accumulate at compound interest for the credit of the fund in question.

(3) The Company shall transfer to any reserve fund or contingency fund formed under the foregoing provisions of this section any sum then standing to the credit of any existing reserve fund or contingency fund as the case may be.

(4) Whenever and so long as the aggregate amount standing to the credit of the reserve fund and contingency fund together amounts to (or by reason of such a transfer as aforesaid exceeds) a sum equal to twelve and a half per centum of the capital expenditure theretofore incurred by the Company for the purposes of the undertaking no contribution from the revenue of the undertaking shall be made to either of the funds and the interest and dividends on the funds shall not be invested but shall be treated as income of the undertaking.

(5) The aggregate amount which subject to the provisions of the last foregoing subsection may be carried by the Company in any year to the formation or maintenance of the reserve fund and contingency fund shall not exceed a sum equal to one and a quarter per centum of the capital expenditure theretofore incurred by the Company for the purposes of the undertaking.

Saving for powers of Treasury.

9 & 10 Geo. 6. c. 58.

39. It shall not be lawful to exercise the powers of borrowing or raising capital conferred by this Act otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

PART IV.

MISCELLANEOUS.

Number of directors.

40.—(1) The number of the directors shall be six but the Company may vary the number provided that the number be not at any time more than seven or less than three.

(2) Section 24 (Number of directors) of the Tendring Hundred Waterworks Act 1884 is hereby repealed.

PART IV.
—cont.

41.—(1) 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 preferred ordinary or new ordinary) of a nominal value of not less than three hundred pounds in the whole. Qualification of directors.

(2) Subsection (1) of section 17 of the Act of 1921 is hereby repealed.

42. Nothing contained in this Act shall extend or operate to authorise the Company to take use enter upon or in any manner interfere with any land soil water or any manorial rights or any other rights of whatsoever description belonging to His Majesty in right of His Duchy of Lancaster without the consent in writing of the Chancellor for the time being of the said duchy first had and obtained (which consent the said Chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed or exerciseable by His Majesty His Heirs or Successors in right of His said duchy. Saving rights of Duchy of Lancaster.

43. All costs charges and expenses preliminary to and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in the whole or in part be defrayed out of revenue. Costs of Act.

THE SCHEDULE referred to in the foregoing Act.

STATEMENT OF SHARE CAPITAL.

Act authorising the raising of capital.	Description of capital.	Maximum dividend per cent.	Nominal amount issued. £	Total amount realised. £	Remaining to be issued. £	Total amount authorised. £
Tendring Hundred Waterworks Acts 1884 to 1912	{ Preferred ordinary shares Ordinary shares	8	106,410	159,123 5 4	—	159,123 5 4
		8	52,450			
Tendring Hundred Waterworks Act 1921	{ Preference shares Preference shares	6	52,960	56,666 0 11 34,454 18 6	—	91,120 19 5
		4	31,810			
			£243,630	£250,244 4 9	—	£250,244 4 9

STATEMENT OF LOAN CAPITAL.

Act authorising the loan capital.	Description of loan.	Nominal amount borrowed. £	Amount received. £	Remaining to be borrowed. £	Total amount authorised. £
Tendring Hundred Waterworks Acts 1884 to 1921	{ Debenture stock 4½% Debenture stock 4% Redeemable debenture stock 5½%	31,730	125,122 2 4	—	125,122 2 4
		77,050			
		14,600			
		£123,380	£125,122 2 4	—	£125,122 2 4

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Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament

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