



CHAPTER xiv.

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

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

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

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

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

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

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

PART I.
—cont.
Incorporation
of general
Acts.

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

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

8 & 9 Vict.
c. 16.

26 & 27 Vict.
c. 118.

(c) The Waterworks Clauses Act 1847 (except the words “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner” in section 44);

10 & 11 Vict.
c. 17.

(d) The Waterworks Clauses Act 1863.

26 & 27 Vict.
c. 93.

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

8 & 9 Vict.
c. 18.

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—

Interpretation.

“The Company” means the Portsmouth Water Company;

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

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

“The directors” means the directors of the Company;

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

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

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

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

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

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

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

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

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

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

PART II.
—cont.

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

Power to
take waters.

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

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

Limiting
powers of
Company to
abstract
water.

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

Diversion and
stopping up
of footpaths
and
occupation
road.

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

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

Temporary
stoppage of
streets.

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

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

23 & 24 Geo. 5.
c. 51.

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

- (a) send at least one month before application is made to the Minister for confirmation of byelaws made under this section a copy of the byelaws to the council of every county the local authority of every district and the catchment board of any catchment area any part of which is within the limits to be defined in the byelaws;
- (b) publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation;
- (c) exhibit during the said month in some conspicuous place in each borough urban district and rural parish any part of which is situate within the said limits a copy of the notice referred to in subsection (3) of section 250 of the said Act of 1933;
- (d) at the request of any owner or occupier of land within the said limits furnish to him free of charge a copy of the byelaws before confirmation and a statement of the effect of this section and at the request of any other person interested furnish to him a copy of the said byelaws upon payment of a sum not exceeding one shilling.

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

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

Provided that—

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

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

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

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

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

- (ii) the amount required to give a reasonable return on the money expended in and in connection with the construction of the protected works and other works as aforesaid and the protection thereof and of the water which can or may be intercepted and taken by means thereof against pollution nuisance encroachment or injury and the ensuring of the purity of the said water;
- (g) for the purpose of giving any supply under the provisions of this section the Company may supply water beyond the limits of supply and carry out all such works within or beyond those limits as may be necessary and the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall subject to any necessary modification apply in relation to the laying down and placing of pipes and other works for affording any supply under the provisions of this section;
- (h) except as otherwise expressly provided by this section any question arising under this section between the Company and any owner or occupier shall be determined by arbitration;
- (i) the Company shall not be under any liability for failure to supply water under the provisions of this section if such failure be due to frost drought or any other unavoidable cause or any accident.
- (3) For the purposes of this section—
- (a) “protected works” means respectively—
- (i) the Worlds End pumping station; and
 - (ii) the Bedhampton and Havant works of the Company comprising the Bedhampton pumping station No. 1 the Bedhampton pumping station No. 2 the Havant pumping station and springs and works connected therewith;
- (b) “centre of the protected works” means in relation to the Worlds End pumping station prior to construction the site thereof and in relation to the Bedhampton and Havant works of the Company the Bedhampton pumping station No. 1;
- (c) “domestic purposes” includes all purposes incidental to the occupation of a dwelling-house and any garden park or grounds occupied in connection therewith;
- (d) “agricultural purposes” includes—
- (i) all purposes for which water is ordinarily used by an owner or occupier of lands in the

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

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

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

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

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

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

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

22. All private rights of way over any lands which the Company are authorised by this Act to acquire compulsorily shall as from the date of the acquisition of such lands by the Company be extinguished:

Extinction of private rights of way.

Provided that the Company shall make full compensation to all persons interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

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

Power to enter property for survey and valuation.

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

Compensation in case of recently acquired interest.

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

PART IV.
—cont.
Pressure.

- (a) in the case of premises at ground levels fifty feet or less above Ordnance datum a height of seventy feet above the ground level of such premises;
- (b) in the case of premises at ground levels more than fifty feet above Ordnance datum but less than two hundred feet above Ordnance datum a height of fifty feet above the ground level of such premises;
- (c) in the case of premises at ground levels two hundred feet or more above Ordnance datum a height of thirty-five feet above the ground level of such premises.

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

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

Power to lay
connecting
mains.

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

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

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

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

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

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

Supply for other than domestic purposes and by measure.

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

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

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

Minimum charge for supply by measure.

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

Supply of water where consumer has separate supply.

(2) Any question arising under this section—

- (a) as to whether a supply of water is demanded or received for the purposes only of a stand-by supply; or
- (b) as to whether any premises have a separate supply of water; or
- (c) as to the amount of the said annual sum to be specified in the agreement;

shall in default of agreement be determined by arbitration.

may be) shall be paid and may be recovered as if it were arrears of the water rate.

PART IV.
—cont.

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

Entry on
premises for
authorised
cutting off.

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

Penalty for
opening
valves &c.

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

Recovery of
expense of
cutting off
supplies in
certain cases.

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

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

Recovery of
rates from
persons
removing.

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

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

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

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

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

36 & 37 Vict.
c. cvi.

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

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

47.—(1) Where water is supplied by measure the register of the meter or other instrument for measuring water shall be prima facie evidence of the quantity of water consumed and in respect of which any water rate is charged and sought to be recovered by the Company:

As to register
of meters.

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

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

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

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

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

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

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

Transfer and
vesting of
communica-
tion pipes &c.

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

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

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

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

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

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

Power to
require
separate
service pipes.

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

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

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

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

Provided that—

- (a) a stop-cock in a street shall after consultation with the highway authority concerned be placed as near to the boundary thereof as is reasonably practicable; and
- (b) a stop-cock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises.

PART V.
—cont.

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

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

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

Repeal and amendment of provisions relating to communication pipes.

Borough of Portsmouth Waterworks Act 1906—

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

6 Edw. 7.
c. cxlviii.

Borough of Portsmouth Waterworks Act 1921—

Section 16 (As to communication pipes):

Act of 1930—

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

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

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

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

Section 30 (As to provision of separate pipe).

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

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

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

PART VI.
—cont.

62. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 and of section 32 (All debenture stock and future mortgages of Company to rank *pari passu*) of the Borough of Portsmouth Waterworks Act 1906 Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Debenture
stock.
32 & 33 Vict.
c. 48.

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

Priority of
mortgages
and debenture
stock over
other debts.

Provided that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to or vested in the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the undertaking and works of the Company or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

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

Appointment
of receiver.

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

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

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

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

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

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

Purchase of
debenture
stock by
agreement.

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

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

Application
of money.

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

PART VI.
—cont.

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

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

Limit on
contingency
fund.

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

Limitation on
carry forward.

- (a) the amount required by the Company for paying any dividend or interest which the Company are entitled or required to pay but have not paid in respect of that year;
- (b) an amount equal to the total sum which the Company would be lawfully entitled to distribute as dividends on any preference and ordinary share capital in respect of the next following year; and
- (c) an amount equal to the total sum which the Company will be required to pay as interest in respect of the next following year on any mortgages or debenture stock.

PART VII.

PROTECTIVE PROVISIONS.

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

Saving for
Crown and
War Depart-
ment.

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

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

PART VII.
—cont.
For protection
of Gosport
Company.

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

4 Edw. 7.
c. xxiv.

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

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

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

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

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

- (4) For the purposes of this section the Company may carry out all such works whether within or outside the limits of supply and do all such things as are necessary for those purposes and the Gosport Company shall grant to the Company all such easements and facilities as they lawfully can and as may be necessary for or in connection with the execution of the works required to enable the Company to carry out their obligations under this section:
- (5) Pending the completion of the laying or construction of pipes and works and the installation of pumping plant meters and apparatus pursuant to paragraph (3) of this section for or in connection with the affording to the Gosport Company of a supply of water

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

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

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

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

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

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

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

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

PART VII.
—cont.

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

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

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

- (a) east of the following imaginary line that is to say a line drawn from north to south passing through a point two miles east of the centre of the Soberton well of the Gosport Company; or
- (b) west of the said imaginary line and within a radius of two miles from the centre of the Worlds End pumping station (Work No. 1) authorised by the Portsmouth Water Act 1941;

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

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

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

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

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

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

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

- (3) No permanent house or building shall be constructed by the Company or by the owner on any lands in respect of which the Company have acquired permanent easements under this section :
- (4) Not less than one month before commencing to execute any work under or on the specified lands the Company shall submit to the owner particulars (including where reasonably necessary plans and sections) of the intended work (except in case of emergency when in lieu of submitting such particulars the Company shall give to the owner such notice of their intention to commence such execution as may be reasonably practicable) and the Company shall not commence the execution of any such work until the particulars thereof shall have been approved by the owner or settled by arbitration as hereinafter provided Provided that if the owner shall not within twenty-one days after the receipt by him of any such particulars intimate to the Company any objection thereto he shall be deemed to have approved the particulars as submitted to him by the Company :
- (5) The Company shall not execute any work under or on woodland forming part of the specified lands

- renewal do as little damage as is reasonably practicable to the lands of the owner and to the user and enjoyment thereof:
- (12) In the construction inspection maintenance repairing and renewal of the specified work the Company shall do as little damage as reasonably may be to any trees upon any part of the specified lands:
- (13) The Company shall exercise all reasonable precautions in the construction maintenance repairing or renewal of the specified work so as not to divert intercept take or prejudicially affect any springs or streams or any water tributary to such springs or streams affording a supply of water to the owner or his lessees or tenants:
- (14) No telegraph or telephone wire or other means of like communication shall be laid by the Company above ground through the specified lands:
- (15) The Company shall take all reasonable means for preventing persons in the employ of themselves or their contractors or sub-contractors trespassing on the lands of the owner and if there be any such trespass the Company shall pay reasonable compensation for any damage caused thereby to the owner or his lessees or tenants. The Company shall also take all practicable steps to prevent dogs being kept by any such persons during the construction of the work No. 2 authorised by this Act:
- (16) The Company shall not in any fence (whether temporary or permanent) to be erected by them in any part of the specified lands use any wire whether barbed or otherwise or any wire netting except with the consent of the owner which shall not be unreasonably withheld:
- (17) The Company shall make full compensation to the owner and his lessees and tenants for any damage caused to him or them and for any reasonable expense which he or they may incur by or in consequence of the leaking bursting or giving way of the specified work due to the negligence or default of the Company or their contractors sub-contractors or workmen:
- (18) The Company shall in addition to any other compensation payable to the owner his lessees or tenants under the provisions of this Act or any Act incorporated therewith be responsible for and pay to the owner his lessees and tenants full compensation for

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

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

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

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

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

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

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

PART VIII.
—cont.

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

Notice by
directors of
contracts.

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

Vacation of
office of
director.

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

Exercise of
minor
powers by one
director.

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

Remuneration
of directors
for special
services.

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

Borough of Portsmouth Waterworks Act 1879—

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

PART VIII.
—cont.
42 & 43 Vict.
c. xxi.

Borough of Portsmouth Waterworks Act 1921—

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

Section 18 (Byelaws for preventing waste of water);

Section 31 (As to contingency fund):

Act of 1930—

Section 17 (Pressure);

Section 34 (As to register of meter);

Section 36 (Penalty for opening valves etc.);

Section 52 (As to receiver);

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

94. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in whole or in part be charged against revenue. Costs of Act.

The SECOND SCHEDULE.

LIMITS OF SUPPLY.

COUNTY OF SOUTHAMPTON.

The city of Portsmouth.

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

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

In the rural district of Droxford—

The parishes of Denmead,
Hambledon,
Southwick and Widley.

In the rural district of Petersfield—

The parishes of Clanfield,
Horndean,
Rowlands Castle.