



CHAPTER cvii.

An Act to authorise the Whitby Waterworks Company to construct new works and to raise additional capital for increasing the charges of the Company and for other purposes. A.D. 1928.

[3rd August 1928.]

WHEREAS by the Whitby Waterworks Act 1864 the Whitby Waterworks Company (in this Act called "the Company") were incorporated and authorised to construct waterworks and to supply water within limits in the said Act mentioned and by the Whitby Water Act 1895 further powers were conferred upon the Company :

And whereas the Company are supplying water in pursuance of the said Acts :

And whereas by the said Acts the Company were empowered to raise capital amounting in the aggregate to forty-two thousand pounds the whole of which except a sum of twenty-one pounds nineteen shillings has been raised by the issue of ordinary and preference shares and they were also empowered to borrow sums amounting in the aggregate to ten thousand five hundred pounds the whole of which has been borrowed :

And whereas by the Whitby Water (Capital Issues) Consent 1924 given by the Board of Trade under the Public Utility Companies (Capital Issues) Act 1920 the Company were empowered to issue debenture stock to the amount of three thousand pounds the whole of which has been issued :

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And whereas the demand for water within the limits of supply of the Company has increased and is increasing and for enabling the Company to meet such demand and to supply water in such limits it is expedient that the Company should be empowered to acquire the lands and to make and maintain the works hereinafter described :

And whereas it is expedient that the Company should be authorised to raise additional capital and to borrow further moneys for the purposes of this Act and of their undertaking and that such other financial provisions should be made as are in this Act contained :

And whereas the revenue derived from the charges authorised by the said Acts is inadequate to enable the Company to raise on reasonable terms the capital necessary for carrying on their undertaking and it is expedient that such charges should be increased :

And whereas it is expedient that such further powers should be conferred upon the Company and that such other provisions should be made as are in this Act contained :

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

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

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

Short and
collective
titles.

1. This Act may be cited as the *Whitby Water Act 1928* and the *Whitby Waterworks Act 1864* the *Whitby Water Act 1895* the *Whitby Water (Capital Issues) Consent 1924* and this Act may be cited together as the *Whitby Water Acts and Order 1864 to 1928*.

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

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—
Incorporation
of Acts.

(1) The Lands Clauses Acts—

Provided always that any question of disputed compensation under this Act or any Act incorporated therewith (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:

(2) The Waterworks Clauses Acts 1847 and 1863 (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 of the Waterworks Clauses Act 1847) Provided that the incorporation of those Acts shall not in any way override or affect the operation of section 17 (As to constant supply and pressure) of the Whitby Water Act 1895:

(3) The provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (namely):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

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

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

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

The making of dividends;

The giving of notices; and

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

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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 the Companies Clauses Act 1869 and any subsequent Act amending those Acts:

- (4) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway and in such provisions for the purposes of this Act the expression "the railway" means the new waterworks by this Act authorised and "the centre of the railway" means the centre lines of those waterworks.

Interpretation.

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

"The Company" means the Whitby Waterworks Company;

"The Act of 1864" means the Whitby Waterworks Act 1864;

"The Act of 1895" means the Whitby Water Act 1895;

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

"The undertaking" means the undertaking for the time being of the Company;

"The directors" means the directors of the Company;

"The new waterworks" means the works described or referred to in the section of this Act the marginal note whereof is "Power to make works";

"The tribunal" means the arbitrator or other tribunal to whom any question of disputed purchase money or compensation under this Act is referred in pursuance of the Lands Clauses Acts;

"The Fishery Board" means the Esk (Yorkshire) Fishery Board.

4.—(1) Subject to the provisions of this Act the Company may in the parish of Egton in the rural district of Whitby in the north riding of the county of York in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections make and maintain the following works and may acquire enter upon take and use all or any of the lands delineated on the deposited plans relating thereto and described in the deposited book of reference (that is to say):—

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Power to
make works.

Work No. 1 A weir (No. 1) across Wheeldale Gill at a point below and near the confluence of Collier Gill therewith;

Work No. 2 A line or lines of pipes (No. 1) with intake commencing in Wheeldale Gill at the said weir (No. 1) (Work No. 1) and terminating in the pumping station (Work No. 3) hereinafter described;

Work No. 3 A pumping station situate in the enclosure numbered 20 on the Ordnance map (scale $\frac{1}{2500}$) sheet LX-3 edition 1912 near the western boundary thereof;

Work No. 4 A line or lines of pipes (No. 2) commencing in the said pumping station (Work No. 3) and terminating in Wheeldale Gill at or near and above the weir (No. 2) (Work No. 5) hereinafter described;

Work No. 5 A weir (No. 2) across Wheeldale Gill at a point thereon 13 chains or thereabouts measured along the said gill above its confluence with Wheeldale Beck;

Work No. 6 A line or lines of pipes (No. 3) with intake for collecting the waters of the spring situate in the enclosure numbered 27 on the said map and sheet and terminating in the collecting tank (Work No. 7) hereinafter described;

Work No. 7 A collecting tank situate at the spring at or near the southern boundary of the enclosure numbered 16 on the said map and sheet;

Work No. 8 A line or lines of pipes (No. 4) with intake for collecting the waters of a spring

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—

situate in the enclosure numbered 47 on the said map and sheet at or near the northern boundary thereof and terminating in the said collecting tank (Work No. 7);

Work No. 9 A line or lines of pipes (No. 5) commencing in the said collecting tank (Work No. 7) and terminating in the said pumping station (Work No. 3);

Work No. 10 A line or lines of pipes (No. 6) commencing in the said pumping station (Work No. 3) and terminating in the tank (Work No. 11) hereinafter described;

Work No. 11 A tank situate in the enclosure numbered 56 on the said map and sheet near the northernmost corner thereof;

Work No. 12 A line or lines of pipes (No. 7) commencing in the said tank (Work No. 11) and terminating by a junction with the existing pipes of the Company in the road leading from Julian Park to Hollin House near the north-eastern corner of the enclosure numbered 1427 on the said map sheet No. XLV-15 edition 1913;

Work No. 13 A line or lines of pipes (No. 8) with intake on the watercourse known as Grain Slack at a point thereon 16.2 chains or thereabouts measured in a westerly direction from the south-western corner of the enclosure numbered 1426 on the said map sheet No. XLV-15 edition 1913 and terminating by a junction with the said line or lines of pipes No. 7 (Work No. 12) near the crossing of the road from Julian Park to Hollin House by the watercourse known as Grain Beck;

Work No. 14 A line or lines of pipes (No. 9) commencing at or in the existing tank of the Company near the northernmost corner of the enclosure numbered 27 on the said map sheet No. LX-3 edition 1912 and terminating in the said tank (Work No. 11);

Work No. 15 A line or lines of pipes (No. 10) with intake for collecting the waters of a spring or springs on Egton High Moor commencing near the north-western corner of the enclosure numbered 49 on the said map sheet No. LX-3

edition 1912 and terminating by a junction with the said line or lines of pipes No. 9 (Work No. 14) near the south-western corner of the said enclosure numbered 49;

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Work No. 16 A raising of the embankment or wall of the Randy Mere reservoir of the Company to a height not exceeding three feet above the existing embankment or wall for the purpose of correspondingly raising the surface level of the water of the said reservoir.

(2) In addition to the foregoing works the Company may upon the said lands make and maintain all such works and apparatus of whatever character as may be necessary or convenient in connection with or subsidiary to the before-mentioned works or any of them but nothing in this subsection 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.

5. For the purpose of gaining access to the pumping station (Work No. 3) by this Act authorised and to the filters the site whereof is shown on the deposited plans the Company may acquire enter upon take and use so much as they may require for that purpose of the land within the limits of lands to be acquired shown on the deposited plans in the neighbourhood of the said pumping station and site of filters.

Power to take lands for access to pumping station and filters.

6. The Company may acquire enter upon take and use for the general purposes of their undertaking the lands delineated on the deposited plans and described in the deposited book of reference and therein numbered 1 in the urban district of Whitby being land situate in an enclosure on the southern side of the road leading from Whitby to Cross Butts opposite the existing Sneaton Castle reservoirs of the Company.

Power to take lands for general purposes of undertaking.

7. In the construction of the new waterworks the Company may subject to the provisions of this Act deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans and except in the case of Work No. 16 they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding three feet upwards and to any extent downwards Provided that except for the

Limits of deviation.

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Power to take waters. **8.**—(1) Subject to the provisions of this Act the Company may—

(a) by means of Work No. 2 by this Act authorised divert the waters of Wheeldale Gill and use the same for the purpose of providing power for operating the pumps in the pumping station (Work No. 3) by this Act authorised; and

(b) by means of the said Work No. 2 and of Works Nos. 6 7 8 13 and 15 by this Act authorised take and appropriate for the purpose of affording a supply of water within the limits of supply the waters of Wheeldale Gill and of the springs and streams at the points of intake shown by the letters A B C D E F and G respectively upon a plan signed in triplicate by the Right Honourable the Earl of Strafford the Chairman of the Committee of the House of Lords to which the Bill for this Act was referred one copy of which plan has been deposited in the Parliament Office in the House of Lords the second copy in the Committee and Private Bill Office of the House of Commons and the third copy in the office of the Company.

(2) Copies of the said plan so deposited in the office of the Company certified by the secretary of the Company to be true copies shall be received in all courts of justice and elsewhere as *primâ facie* evidence of the contents of such plan.

Restrictions on taking water from Wheeldale Gill.

9.—(1) The Company shall not under the powers of this Act divert any water flowing in Wheeldale Gill or use the same for the purpose of providing power during such time as the flow in Wheeldale Gill immediately below Work No. 1 by this Act authorised shall be less than at the rate of two hundred thousand gallons per day of twenty-four hours.

(2) The Company shall not under the powers of this Act take or appropriate for the purpose of affording a supply of water within the limits of supply any water flowing in Wheeldale Gill during such time as the flow

therein immediately below Work No. 5 by this Act authorised shall be less than at the rate of two hundred and fifty thousand gallons per day of twenty-four hours and the quantity of water taken or appropriated from Wheeldale Gill by the Company under the powers of this Act in any day of twenty-four hours shall not exceed two hundred and fifty thousand gallons. A.D. 1928.

(3) For the purpose of measuring the water flowing in Wheeldale Gill immediately below Work No. 1 and immediately below Work No. 5 by this Act authorised and the quantity of water taken and appropriated from Wheeldale Gill the Company shall before diverting taking or appropriating such water provide and fix and shall thereafter maintain proper and suitable meters or gauges (including such automatic recorders as may be reasonably required) through or over which respectively the water in Wheeldale Gill and the quantity of water taken therefrom and appropriated by the Company shall pass.

(4) The situations in which the said meters or gauges shall be fixed and the designs thereof and of any automatic recorders shall be reasonably approved by the Minister of Agriculture and Fisheries before construction and the said meters or gauges and automatic recorders and the records obtained by means thereof shall be open at all reasonable times to the inspection and examination of the fishery board and all persons interested in the flow of Wheeldale Gill or their duly accredited representatives and such persons or representatives may if they so desire take copies of any such records.

(5) In case of any neglect on the part of the Company to maintain the said meters or gauges and automatic recorders or any of them in a state of efficiency or in case of any other neglect by or in consequence of which water shall be appropriated by the Company in contravention of the provisions of this section the Company shall for every day on which such neglect occurs forfeit and pay to each of the persons injuriously affected thereby including the fishery board (who may sue for and recover the same) the sum of five pounds and shall in addition make compensation for any loss or injury sustained by such persons.

(6) If any difference arises between the Company and the Minister of Agriculture and Fisheries with respect to the situations or designs of the said meters

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gauges or automatic recorders or with respect to whether automatic recorders are required or between the Company and the fishery board or any person so interested as aforesaid with respect to the construction or use of the said meters gauges and automatic recorders or any of them or the state of repair or condition thereof such difference shall be referred to the arbitration of an engineer to be nominated (unless otherwise agreed) on the application of either party after notice in writing to the other of them by the President of the Institution of Civil Engineers.

(7) The provisions of this section shall subject to the provisions of this Act be accepted and taken by all persons interested as full compensation for all water which the Company may collect impound take use divert or appropriate under the powers of this Act.

For protection of John Kenneth Foster.

10. For the protection of John Kenneth Foster and his sequels in estate or other the owner or owners for the time being of the estate in the north riding of the county of York known as the "Egton Estate" (all of whom are in this section referred to and included in the expression "the owner") the following provisions shall notwithstanding anything in this Act contained and unless otherwise agreed in writing between the owner and the Company apply and have effect (that is to say):—

- (1) In this section "the signed plan" means the plan referred to and described in the section of this Act the marginal note of which is "Power to take waters":
- (2) (a) The Company shall purchase and the owner shall sell and convey to the Company lands having an aggregate area not exceeding half an acre in the situations tinted red approximately indicated on the signed plan and on which the pumping station (Work No. 3) the collecting tank (Work No. 7) the service tank (Work No. 11) and the intended filter respectively are to be constructed subject to all existing leases agreements and tenancies affecting such lands;
(b) The Company shall purchase and the owner shall grant to the Company—
 - (i) an easement or right of way to and from the sites of the pumping station filter collecting tank and service tank the positions

of which are marked "pumping station" "site of filters" "collecting tank" and "tank" respectively on the signed plan;

(ii) an easement or wayleave for constructing maintaining repairing inspecting and using Works Nos. 1 2 4 5 6 8 9 10 12 13 14 and 15 by this Act authorised (so far as the same are intended to be situate on the Egton Estate) within the limits of deviation delineated on the deposited plans :

- (3) Except as provided by subsection (2) of this section it shall not be lawful for the Company to acquire enter upon take or use either permanently or temporarily any part of the Egton Estate or to purchase or acquire any right or interest of the owner otherwise than by agreement :
- (4) The Company shall pay to the owner for the lands easements or rights of way or wayleaves to be acquired by them under subsection (2) of this section the sum of two thousand pounds :
- (5) The said sum of two thousand pounds shall include the compensation payable to the owner in respect of his rights over or interest in—
 - (i) the waters of the springs referred to in the section of this Act of which the marginal note is "Power to make works" ;
 - (ii) the waters of Wheeldale Gill and Grain Slack so far as the same can or may be taken used and appropriated in accordance with the provisions of this Act by means of the said Works Nos. 2 and 13 but not further or otherwise :
- (6) The purchase of the said lands easements or rights of way or wayleaves shall be completed and the said sum of two thousand pounds paid to the owner on the twenty-ninth day of September one thousand nine hundred and twenty-eight :
- (7) There shall be reserved to the owner the mines and minerals under the said lands tinted red on the signed plan and the owner and his lessees and tenants shall be at liberty to work

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- such mines and minerals and shall not be liable for or to make good any damage caused to any of the works by this Act authorised by working the said mines and minerals or by any subsidence or other injury occasioned thereby :
- (8) There shall be reserved to the owner in respect of any lands in which the Company acquire any such easement or right of way or wayleave as aforesaid the right to construct place lay execute maintain repair renew and use in across along over or under the said lands all such roads lines of rails fences sewers drains gas and water mains and pipes electric mains cables and apparatus as the owner may from time to time think fit but so as not to injure or unreasonably interfere with the works of the Company :
- (9) There shall be reserved to the owner and to persons authorised by the owner the sole and exclusive right of sporting including fishing over all lands and waters forming part of or on the Egton Estate and a right of access and entry to such lands and waters for the purpose :
- (10) Each of the said Works Nos. 2 4 6 8 9 10 12 13 14 and 15 shall respectively consist of not more than two lines of pipes in no case exceeding twelve inches in diameter :
- (11) The said Works Nos. 2 4 6 8 9 10 12 13 14 and 15 so far as the same may pass through the Egton Estate shall except at the points of intake therein be made and maintained wholly underground and in such manner that no part of the same or their earth covering (which shall not be less than two feet in depth) shall project above the existing surface of the ground :
- (12) Before commencing to execute any work by this Act authorised in through upon or over the Egton Estate the Company shall give to the owner not less than fourteen days notice of their intention to commence such execution :
- (13) The Company shall as far as reasonably practicable execute any work in through upon or over any arable land forming part of the Egton Estate at such times and in such manner as not to affect injuriously the cropping of such land or the crops growing thereon :

- (14) When the Company shall commence the execution of any works in through upon or over the Egton Estate they shall proceed with such execution with all practicable dispatch and shall complete the same and restore the surface of the ground within the shortest practicable period :
- (15) At all times while any trench or excavation dug by the Company upon the Egton Estate remains open the Company shall keep such trench or excavation properly fenced and guarded and if any cattle horses or other live stock shall be killed or injured by falling into any such trench or excavation by reason of any negligence on the part of the Company the Company shall make full compensation therefor :
- (16) In filling in any trench or excavation dug by the Company upon the Egton Estate the Company shall use only the excavated material and shall replace the same in layers so that the condition of the subsoil shall be as nearly as practicable the same as before the trench or excavation was dug :
- (17) The Company shall to the reasonable satisfaction of the owner make good all damage caused by them to the road numbered 50 on the deposited plans and shall effectively restore the same to at least as good a condition as it was in prior to having been so damaged :
- (18) The Company shall to the reasonable satisfaction of the owner effectively restore and make good all roads fences cuts watercourses ditches conveniences matters and things belonging to the owner which may be damaged altered or interfered with by the Company during the construction or maintenance of any of the new waterworks :
- (19) No temporary road or other means of access shall be constructed by the Company on the Egton Estate without the consent of the owner which consent shall not be unreasonably withheld or otherwise than in such a position as the owner shall reasonably require :
- (20) All works of the Company in through upon or over the Egton Estate (including the restoration

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of the surface of the ground) shall be carried out to the reasonable satisfaction of the owner and under his superintendence if after reasonable notice from the Company he shall choose to attend or to be represented :

- (21) All buildings to be erected by the Company on any lands acquired by them under subsection (2) of this section shall be erected with due consideration to the amenities of the Egton Estate and all such buildings (other than temporary buildings during construction) shall be erected only of such material and in accordance with such particulars elevations and general drawings as shall be previously reasonably approved by the owner Provided that if the owner shall not within one month after the receipt by him of any such particulars elevations and drawings intimate to the Company any objection thereto he shall be deemed to have approved the particulars elevations and drawings as submitted to him by the Company :
- (22) No officer servant or agent of the Company shall at any time cross or come upon the Egton Estate without the written authority of the Company and such officer servant or agent shall at all times when upon such estate upon demand produce and show such authority to the owner his servants and agents :
- (23) The Company shall take all reasonable means which may be required by the owner for the prevention of trespass or poaching on the Egton Estate by persons employed in connection with the construction or maintenance of the new waterworks :
- (24) The Company shall (subject to the approval of the Minister of Agriculture and Fisheries if required) within three months after the passing of this Act enclose with fences of such height and character as shall be reasonably required by the owner the pieces of land marked green on the signed plan or at the option of the Company the owner shall at all times be at liberty to dig or make trenches channels or drains or other similar works for the purpose of draining away the overflow water from the

said pieces of land but only in such a manner as not to interfere with the springs situate thereon :

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(25) The Company shall construct and maintain to the reasonable satisfaction of the owner drinking troughs each of at least fifty gallons capacity at the several points marked "T" on the signed plan and as from the date upon which Work No. 15 by this Act authorised shall have been completed the Company shall at all times free of charge supply to each such drinking trough and keep the same supplied by means of a pipe supply and ball cock with a proper and sufficient supply of water for watering cattle sheep horses and other live stock :

(26) The Company shall to the reasonable satisfaction of the owner and free of charge maintain and when necessary renew—

(a) the pipes and taps laid down and used for the supplies of water mentioned or referred to in clauses 4 and 5 of the agreement dated the twenty-fifth day of March one thousand eight hundred and ninety-five set forth in the schedule to the Act of 1895; and

(b) the supply pipes and fittings mentioned or referred to in subsection (25) of this section; and the owner shall afford the Company all reasonable facilities to enable them to carry out their obligations under this subsection :

(27) If by or in consequence of the working of the mines and minerals under the Egton Estate the waters which the Company are authorised to abstract or appropriate therefrom become or are likely to become fouled the Company shall construct and lay down all such drains sewers watercourses and other works and conveniences as may be necessary or proper for the purpose of intercepting any foul waters arising from or in connection with the working of the said mines or minerals under the Egton Estate and for conveying the same to and discharging the same into Wheeldale Gill through the gauge to be placed in Work No. 1 by this Act authorised The said drains sewers watercourses and

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other works and conveniences shall be constructed and laid down in accordance with plans sections and particulars to be previously reasonably approved by the owner and the owner shall grant without payment therefor all necessary easements or facilities for such constructing and laying down. Provided that the owner shall give not less than three months' notice to the Company of his intention to work or permit to be worked the said mines and minerals and of the situations in which such mines and minerals are likely to be worked :

- (28) The owner shall have the right to maintain and use on the Randy Mere reservoir of the Company a boat not exceeding 15 feet in length and not propelled by mechanical power for fishing on such reservoir and to transport such boat to and from the reservoir :
- (29) The Company shall make full compensation to the owner his lessees and tenants for any loss or damage they may sustain or any charges or expenses they may be put to or incur by reason of any leakage bursting or failure of the Randy Mere reservoir of the Company or of any of the works constructed under the provisions of this Act :
- (30) Nothing in this Act contained shall prejudice or affect the rights of the owner to collect impound take use divert and appropriate the waters of the springs and watercourses on the Egton Estate draining to Wheeldale Gill (other than such of the springs referred to in the section of this Act of which the marginal note is " Power to make works " as drain to the Wheeldale Gill) but all such rights may be had enjoyed and exercised by the owner as fully and as freely as if this Act had not been passed :
- (31) The meters gauges and automatic recorders referred to in subsection (3) of the section of this Act of which the marginal note is " Restrictions on taking water from Wheeldale Gill " shall be fixed in such situations and be of such designs as the owner shall reasonably approve and if any difference arises between the Company and the owner with respect to the situation

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and designs of the said meters gauges or automatic recorders or with respect to whether automatic recorders are required such difference shall be referred to the arbitration of an engineer to be nominated on the application of either party after notice in writing to the other of them by the President of the Institution of Civil Engineers :

- (32) The Company shall in addition to any other compensation payable by them under or by virtue of this Act in respect of the lands of the owner make full compensation to the owner and his lessees and tenants for all damage and loss occasioned to them or any of them respectively by any act of the Company whether during construction or maintenance :
- (33) The provisions of this section shall be in addition to and not in derogation of any other provisions of the Whitby Water Acts and Order 1864 to 1928 or the Act incorporated therewith which may enure for the protection or benefit of the owner or his lessees or tenants :
- (34) If any difference shall arise between the owner and the Company with respect to any question under this section (except subsection (31)) such difference shall be referred to and determined by an arbitrator to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Surveyors Institution and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such reference and determination.

11. The quantity of common or commonable lands which may be taken by the Company under the powers of this Act shall not exceed the following (that is to say) :—

Limiting quantity of common lands to be taken.

Name of Common.	Parish in which the lands are situate.	Quantity to be taken.
Egton High Moor -	Egton - - - - -	1A. 3R. 21P.

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Owners may
be required
to sell parts
only of
certain
premises.

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

(a) The owner of and persons interested in any of the properties whereof the whole or part is described in the schedule to this Act and whereof a portion only is required for the purposes of the Company or each or any of them are in this section included in the term “the owner” and the said properties are in this section referred to as “the scheduled properties”;

(b) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise;

(c) If within such twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the tribunal shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled properties specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed;

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

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(2) The provisions of this section shall be in force notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 or section 93 of the Lands Clauses Consolidation Act 1845.

(3) The provisions of this section shall be stated in or endorsed on every notice given thereunder to sell and convey any premises.

Period for completion of works.

13. If the new waterworks are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making of the said waterworks or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed provided that the Company may alter improve enlarge extend renew reconstruct and discontinue any of their works and plant as and when occasion may require.

Works to form part of undertaking.

14. Subject to the provisions of this Act the new waterworks shall for all purposes whatsoever form part of and be comprised in the undertaking.

Period for compulsory purchase of lands.

15. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the thirty-first day of October one thousand nine hundred and thirty-one.

Persons under disability may grant easements &c.

16. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to acquire

17.—(1) The Company may in lieu of acquiring any lands for the purposes of the new waterworks where

the same are intended to be constructed underground acquire such easements only in such lands as they may require for such purposes and may give notice to treat in respect of such easements describing the nature thereof and the provisions of the Lands Clauses Acts as incorporated in this Act shall apply to and in respect of the acquisition of such easements as fully as if the same were lands within the meaning of those Acts.

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—
easements
in lieu of
lands.

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

(3) The Company shall as soon as is reasonably practicable restore to its original condition the surface of any common or commonable lands in respect of which the Company have acquired easements only under the provisions of this section.

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

18. All private rights of way over any lands which may be acquired compulsorily under the powers of this Act shall as from the date of the acquisition of such lands be extinguished Provided that the Company shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts as incorporated with this Act with reference to the taking of lands otherwise than by agreement.

Private
rights of
way over
lands taken
compul-
sorily.

19.—(1) For the purpose of protecting any of their waters and waterworks against pollution nuisance encroachment or injury the Company may by agreement purchase take on lease and acquire any lands in or over which any waters which the Company are for the time

Powers for
protection
of waters
and water-
works.

A.D. 1928. being authorised to collect impound take use divert or appropriate arise or flow and may hold such lands so long as they shall deem it necessary or expedient for those purposes. Provided that the Company shall not create or permit the creation or continuance of any nuisance on any lands acquired under this section nor erect any buildings thereon except such as are required for or connected with or incident to the purposes of the undertaking.

(2) The Company may in and upon any lands so acquired by them construct and lay down drains sewers watercourses and other works and conveniences necessary or proper for the purpose of intercepting or taking all foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Company are empowered to take from being polluted and the Company may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road within any area in or through which any waters which may be taken by the Company arise or flow subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

(3) The powers conferred by this section shall not authorise the grant or enclosure of common without the consent of the Minister of Agriculture and Fisheries.

Acquisition
of lands by
agreement.

20. In addition to any lands which the Company are by any other provisions of the Whitby Water Acts and Order 1864 to 1928 authorised to acquire the Company may by agreement purchase or take leases of and hold further lands for the purposes of the undertaking or any easement (not being an easement of water in which persons other than the grantors have an interest) in over or under any such lands or otherwise but the quantity of lands held by the Company in pursuance of this section shall not at any time exceed five acres. Provided that the Company shall not create or permit any nuisance on any such land nor erect any buildings thereon except such as are required for or are connected with or incident to the purposes of the undertaking.

Power to
agree as to
drainage of
lands &c.

21. The Company may make and carry into effect agreements with the owners lessees or occupiers of any land within the drainage area of any of their waterworks with reference to the execution by the Company or such

owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters authorised to be diverted collected and appropriated by the Company flowing to upon or from such lands directly or derivatively into any of such works.

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22. 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.

23.—(1) For the purpose of executing constructing repairing cleansing emptying or examining any reservoir well conduit or line of pipes or other work now or hereafter belonging to the Company the Company may cause the water in any such reservoir well conduit or line of pipes or work to be discharged into any available stream or watercourse Provided that any water so discharged shall so far as may be reasonably practicable be free from mud solid or offensive matter and other matter injurious to fish or spawn or spawning beds or food of fish.

Discharge of water into streams.

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

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

24. The Company may on all or any of the lands for the time being held by them execute for the purposes of or in connection with the undertaking any of the works mentioned in section 12 of the Waterworks Clauses Act 1847 (other than wells and works for the taking and intercepting of water) Provided that the Company shall not under the powers of this section create or permit the creation or continuance of any nuisance on any such lands.

As to exercise of powers of section 12 of Waterworks Clauses Act 1847.

A.D. 1928.

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Rates for
supply of
water for
domestic
purposes.

25. As from the first quarter-day after the passing of this Act the following provisions shall have effect in lieu of section 61 (Rates at which water is to be supplied Where no watercloset If there be a watercloset or private bath) of the Act of 1864 (that is to say) :—

- (1) The Company shall at the request of the owner or occupier of any dwelling-house or part of a dwelling-house entitled under the provisions of the Acts for the time being relating to the Company to demand a supply of water for domestic purposes furnish to such owner or occupier a sufficient supply of water for such domestic purposes at a rate per annum not exceeding eight pounds ten shillings per centum of the gross value of the premises so supplied and so in proportion for any shorter period than a year Provided that the Company shall not be required to afford a supply of water for domestic purposes to any premises at a less rate than threepence a week :
- (2) The gross value of any such premises as aforesaid shall be ascertained by the valuation list in force at the commencement of the quarter for which the rate accrues or if there is no such list in force by the last rate made for the relief of the poor Provided that where the water rate is chargeable on the gross value of a part only of any hereditament entered in the valuation list such gross value shall be a fairly apportioned part of the gross value of the whole tenement ascertained as aforesaid the apportionment in case of dispute to be ascertained by a court of summary jurisdiction :
- (3) In addition to the foregoing charges the Company may charge in respect of every watercloset beyond the first (for which no additional charge shall be made) on any premises within the limits of supply a sum not exceeding five shillings per annum and for every fixed bath capable of containing as usually filled for use not more than fifty gallons a sum not exceeding ten shillings per annum and for every fixed bath capable of containing as usually filled for use more than fifty gallons such sum as the Company may think fit such additional sums to be paid quarterly in

advance and to be recoverable in all respects with and as the water rate. Provided that in respect of any fixed bath installed prior to the passing of this Act the Company shall only be entitled to so charge and recover a sum not exceeding ten shillings per annum: A.D. 1928.

- (4) In this section the expression "gross value" has the meaning given to that expression by section 68 of the Rating and Valuation Act 1925. Provided that until the first new valuation lists under the Rating and Valuation Act 1925 have come into force within the limits of supply the expression "gross value" shall be deemed to mean the gross estimated rental of the premises so supplied with water.

26. Subject to the provisions of this Act the price to be charged for a supply of water by meter shall not exceed three shillings per thousand gallons. Price of supply by meter.

27. In the event of the Minister of Health being satisfied that the cost of labour and materials or other circumstances affecting the undertaking have substantially altered he may if he thinks fit on the application of the Company or of a local authority having jurisdiction within the limits of supply made at any time after the expiration of five years from the passing of this Act by order vary either by way of increase or decrease the rates and charges for the supply of water authorised by this Act: Revision of rates.

Provided that the rates and charges prescribed in any such order shall be of such respective amounts as to provide (after paying all proper expenses of and in connection with the working management and maintenance of the undertaking and making good depreciation and paying all other costs charges and expenses (if any) properly chargeable to revenue) a reasonable return on the capital of the Company:

Provided also that the rates and charges for the time being in force under any such order may in the like event be varied in like manner at any time after the expiration of any or every period of five years after they were last altered.

28. Where water supplied for domestic purposes is used for horses or washing carriages or motor cars or for Charges for hose-pipes.

A.D. 1928. other purposes in stables garages or premises where horses carriages or motor cars are kept the Company may if a hose-pipe or other similar apparatus is used charge any additional sum not exceeding twenty shillings per annum as they may prescribe and (where more motor cars than one are kept) a further sum not exceeding ten shillings per annum for each motor car beyond the first Any sums charged under this section shall be recoverable in the same manner as water rates.

Charges for supplies for refrigerating apparatus.

29. Where a person who takes a supply of water for domestic purposes from the Company desires to use for or in connection with a refrigerating apparatus any of the water so supplied the Company shall be entitled to require that all water so used shall—

(a) be taken by meter and paid for accordingly and in that event the minimum quarterly charge for the water shall be ten shillings; or

(b) be paid for at such rates as may be agreed between the consumer and the Company.

Rates payable by owners of small houses.

30.—(1) Where the rateable value of a house supplied with water does not exceed ten pounds or the house is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall if the Company so determine pay the rate for the supply but the rate may be recovered from the occupier and may if the occupier be not himself liable therefor under any lease or agreement be deducted by him from the rent from time to time due from him to the owner Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

(2) The provisions of section 73 of the Waterworks Clauses Act 1847 shall mutatis mutandis extend and apply to any payments made under the provisions of this section by the owner of any house and as if such first-mentioned provisions applied in the case of any lease or agreement whether made before or after the passing of this Act.

(3) Section 68 (Occupier liable to water rent in certain cases) of the Act of 1864 is hereby repealed.

31.—(1) The Company shall not be bound to supply with water otherwise than by meter— A.D. 1928.

- (a) any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade or manufacturing purpose for which water is required; or Supply to houses partly used for trade &c.
- (b) any poor law institution hospital asylum (whether public or private) sanatorium school club hotel public-house restaurant or inn; or
- (c) any boarding-house capable of accommodating at least twenty persons or common lodging-house capable of accommodating at least twelve persons; or
- (d) any public institution which is habitually occupied by at least twenty persons.

(2) Where a supply of water to a farm-house is used for farming purposes the Company may require that the supply for farming purposes shall be taken by meter but nothing in this section shall authorise the Company to refuse a supply of water for domestic purposes to a farm-house at the ordinary rate calculated on the gross value thereof.

(3) The minimum quarterly charge for a supply of water by meter to any of the premises in this section mentioned shall be a sum equal to one-fourth of the annual amount which would be payable according to the scale for the time being in force for a domestic supply furnished to a dwelling-house of the same gross value or a sum of ten shillings whichever shall be the higher.

(4) In this section the expression "gross value" has the meaning given thereto by the section of this Act of which the marginal note is "Rates for supply of water for domestic purposes."

32.—(1) Notwithstanding anything in any Act or Order relating to the Company a person shall not be entitled to demand or continue to receive from the Company a supply of water to any caravan shack hut tent or other like structure unless he has agreed with the Company to take a supply of water by meter and to pay to the Company such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges Special terms for supplies to caravans &c.

A.D. 1928. incurred by them in order to meet the possible maximum demand for his caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him and unless he has secured to the reasonable satisfaction of the Company by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his caravan shack hut tent or structure.

(2) The sum to be so paid and the security to be so given shall be determined in default of agreement by a court of summary jurisdiction who may also order by which of the parties the costs of the proceedings before them shall be paid and the decision of the justices shall be final and binding on all parties.

Separate communication pipes may be required.

33.—(1) The Company shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house supplied by them with water.

(2) If the owner of any house supplied with water by the Company when so required in pursuance of the preceding subsection fails within a period of one month after the receipt of such requirement to provide a separate pipe from the main pipe into such house the Company may themselves do the work necessary in that behalf and may recover from such owner the cost incurred by them in so doing.

Amendment of section 35 of Waterworks Clauses Act 1847.

34. The provisions of section 35 of the Waterworks Clauses Act 1847 shall in their application to the Company be read and construed as if the words "one-eighth part" were substituted therein for the words "one-tenth part."

Power to lay pipes in private streets.

35. The Company may on the application of the owner or occupier of any premises within the limits of supply abutting on or being erected in any street laid out but not dedicated to public use supply those premises with water and for that purpose the Waterworks Clauses Act 1847 shall apply as if section 29 of that Act were excepted from incorporation in the Whitby Water Acts and Order 1864 to 1928. Provided that the Company shall not exercise their powers under this section in respect of any street or road belonging to a railway

company except with the consent of such railway company. A.D. 1928.
but such consent shall not be unreasonably withheld and
in carrying out any works authorised by this section the
company shall not unreasonably obstruct or interfere
with the convenient access to any such street or road.

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

Company to connect communication pipes with mains.

37.—(1) For the purposes of complying with any obligation under the Waterworks Clauses Acts 1847 and 1863 to maintain any pipe or apparatus the person liable to maintain the same shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

Opening of ground by persons liable to maintain pipes &c.

(2) The Company may by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe and for that purpose to open or break up any street in the limits of supply execute such works on behalf of such owner or occupier and any expenses incurred by the Company shall be repaid by the owner or occupier with whom the agreement is made.

38. If in the opinion of the Company any waste of water or injury or risk of injury to person or property is caused or likely to be caused by reason of any injury to or defect in any communication pipe which the Company are not under obligation to maintain it shall be lawful for the Company to execute such repairs to the communication pipe as they may think necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the communication pipe shall have been found the expenses incurred by the Company for the purpose of ascertaining the injury or defect and executing the repairs (including the expenses of breaking up filling in reinstating and making good any

Power to Company to repair communication pipes.

A.D. 1928. road pavement or soil for those purposes) shall be recoverable by the Company from the owner of the premises supplied or in cases where the communication pipe is repairable by the occupier of such premises from the occupier in like manner as the water rates in respect of the premises are recoverable. Provided that—

- (a) such expenses shall not be recoverable in respect of any communication pipe between the water main of the Company and the curtilage of the consumer's premises laid prior to the first day of January one thousand nine hundred and twenty-six;
- (b) except in case of emergency the Company shall not without the previous consent of a railway company exercise the powers of this section in respect of any property belonging to such railway company and used for the purposes of their undertaking but such consent shall not be unreasonably withheld;
- (c) except in case of emergency the Company shall not under the powers of this section enter into any house or private premises unless they shall have given notice to the occupier of such house or premises and in any case where the communication pipe is repairable by the owner thereof to such owner not less than twenty-four hours' previous notice of their intention so to enter.

Mainten-
ance of
common
pipe,

39. Where several houses or parts of houses in the occupation of several persons are supplied with water by one common pipe belonging to the several owners or occupiers of such houses or parts of houses the said several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Company in the maintenance and repair of such pipe and their respective proportions of contributions shall be settled by the engineer of the Company.

Penalties
for closing
or opening
valves and
apparatus.

40.—(1) Every person who shall wilfully (without the consent of the Company) or negligently close or shut off any valve cock or other work or apparatus belonging to the Company whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Company) be liable to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any

damage by them sustained Provided that this section shall not apply to a consumer closing a valve fixed on his communication pipe. A.D. 1928.

(2) Any person being the owner or occupier of any house or building or part of a house or building or premises to or in respect of which he is not for the time being entitled to a supply or the continuance of a supply of water by the Company who shall without the authority of the Company turn on any valve cock or other work or apparatus attached to any service main or pipe connected with any main of the Company and provided or available for the purposes 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.

41.—(1) Subject to the provisions of the Waterworks Clauses Act 1847 the Company may for the purpose of preventing and detecting waste affix and maintain meters and similar apparatus on the service pipes and mains of the company and stop-cocks in the pipes supplying houses with water and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and may for that purpose stop break up and interfere temporarily with public and private streets roads lanes footways sewers courts passages tramways gas or water pipes electric lines wires and apparatus. Detection of waste.

(2) Provided that the Company shall not—

(a) interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the said Act;

(b) without the previous consent of a railway company exercise the powers of this section in respect of any street road footpath or property belonging to such railway company but such consent shall not be unreasonably withheld.

42.—(1) The Company may when they do in fact afford or are prepared on demand to afford a constant supply make byelaws for the purpose of preventing the waste undue consumption misuse or contamination of water and may by such byelaws prescribe the size nature Byelaws for preventing waste &c. of water.

A.D. 1928. — materials workmanship and strength and the mode of arrangement connection disconnection alteration and repair of pipes meters cocks ferrules valves soil-pans waterclosets baths cisterns and other apparatus (in this section referred to as "water fittings") to be used and forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination.

(2) All such byelaws shall be subject to the provisions contained in sections 182 183 184 and 186 of the Public Health Act 1875 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 of the Company were the clerk of the local authority.

(3) A copy of all such byelaws in force for the time being shall be kept at the office of the Company All persons may at all reasonable times inspect such copy without payment and the Company shall cause to be delivered a printed copy of all byelaws for the time being in force to every person applying for the same on payment of a sum not exceeding sixpence for each copy.

(4) 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 the premises of or occupied by such person 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.

(5) Section 67 (Regulation for preventing waste &c. of water) of the Act of 1864 is hereby repealed.

Extension of
power to
inspect
premises.

43. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 any officer of the Company may at all reasonable times between the hour of four o'clock in the afternoon and one hour after sunset enter into any house or premises supplied with

water by the Company in order to examine if there be any waste or misuse of such water and if any person hinder any such officer from entering or making such examination as aforesaid he shall for every such offence be liable to a penalty not exceeding five pounds. A.D. 1928.

44. Where the Company supply water by measure the register of the meter or other instrument for measuring water shall be *primâ facie* evidence of the quantity of water consumed and in respect of which any water rate or rent is charged and sought to be recovered by the Company. Provided that if the Company and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid and the decision of such court shall be final and binding on all parties. Register of meter to be *primâ facie* evidence.

45.—(1) Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Company or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Company shall (without prejudice to any other right or remedy for the protection of the Company) be liable to a fine not exceeding five pounds and the Company may in addition thereto recover the amount of any damage by them sustained. Injuring meters &c.

(2) In any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fittings belonging to the Company or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Company the Company may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for insuring the proper registering by such meter or other instrument of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and

A.D. 1928. — things shall be repaid to the Company by the person so offending and may be recovered by them as water rates are recoverable.

(3) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Company when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be *primâ facie* evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings.

Power to sell meters.

46. The Company may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit.

Power to supply fittings.

47.—(1) The Company may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter but shall not manufacture any such pipes valves cocks cisterns baths meters soil-pans waterclosets and other fittings as are required or permitted by their regulations or byelaws and may provide all materials and work necessary or proper in that behalf and the reasonable charges of the Company in providing such materials and executing such work shall be paid by the person requiring the same.

(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Company as the actual owners thereof.

Fittings on hire to remain property of Company.

48. All engines fittings apparatus and appliances (in this section referred to as "fittings") let by the Company on hire or under hire-purchase agreements under any statutory powers shall notwithstanding that they be fixed or fastened to any part of any premises in which they may be situate or to the soil under any such premises at all times continue to be the property of and

removable by the Company Provided that such fittings are marked or impressed with a sufficient mark or brand indicating the Company as the actual owners thereof. A.D. 1928.
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49. Before any person connects or disconnects any meter by means of which any of the water of the Company is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Company of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the Company and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings. Notice to Company of connecting or disconnecting meters.

50. The Company may enter into and carry into effect agreements with any local authority company body or person supplying water under parliamentary authority for the purchase of water in bulk by the Company for such price and on such terms and conditions and for such period or in perpetuity as may be agreed upon and any water so purchased may be used by the Company for the purposes of the undertaking. Purchase of water in bulk.

51.—(1) The Company may enter into and carry into effect agreements with any local authority company body or person for the supply of water beyond the limits of supply to any such authority company body or person respectively in bulk for any purpose and for such remuneration and on such terms and conditions and for such period or in perpetuity as may be agreed upon Provided that such supply shall not be given except with the consent of any company or person supplying water under parliamentary authority within the area to be supplied and of the local authority of the district comprising that area nor if and so long as such supply would interfere with the supply of water for domestic or other purposes within the limits of supply Provided also that nothing in this section shall authorise the Company to lay any mains or other pipes or to interfere with any street beyond the limits of supply. Supply in bulk.

(2) Section 39 (Power to supply water in bulk) of the Act of 1895 is hereby repealed.

52.—(1) Any urban or rural district council whose district is in whole or in part within the limits of supply may give and enter into any guarantee or contract for Guarantees by district councils.

A.D. 1928.

securing payment to the Company of such periodical or other sum or sums at such time or times in such manner and subject to such stipulations as may be agreed by and between such council and the Company for the purpose of the supply of water within any part of such district or with respect to the providing or laying down by the Company of any main or pipe or works for such supply.

(2) The giving of such guarantee and the performance of any contract in relation thereto shall be deemed to be a purpose for which under the provisions of any general Act relating to the powers of such council they may incur expenditure and any such council may raise in like manner as money may be raised under the provisions of any such general Act any money which may become payable to the Company under this section :

Provided that where such money is raised by a rural district council by means of a rate such rate shall be levied as a special rate within the meaning of section 3 of the Rating and Valuation Act 1925.

(3) Nothing in this section shall be deemed to authorise any such urban or rural district council to use any water supplied by the Company under any such guarantee or contract as aforesaid in any part of the district of such council which is beyond the limits of supply and within the limits for the supply of water of any other authority supplying water under parliamentary authority without the consent of such other authority.

Application
of autho-
rised capital.

53. The Company may apply for the purposes of this Act to which capital is properly applicable any money which they have raised or are authorised to raise and which is not made applicable by any Act for any particular purpose or if so made applicable is not required for that purpose.

Power to
raise addi-
tional
capital.

54. The Company may from time to time raise additional capital to such an amount as shall be sufficient to produce after taking into account premiums or discount (if any) which may be obtained or allowed respectively on the issue thereof the sum of thirty thousand pounds by the creation and issue of new ordinary or preference shares or stock or wholly or partially by one or more of those modes Provided that the Company

shall not under the powers of this section issue any share of less nominal value than ten pounds. A.D. 1928.

55. Subject to the provisions of this Act the additional capital created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company authorised to be raised by the Company's Acts and the new shares or stock were shares or stock in that capital. Incidents of additional capital.

56. Subject to the provisions of this Act every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares or to the whole amount of such stock as the case may be. Dividends on new shares and stock.

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

58.—(1) All ordinary and preference shares or stock hereafter created by the Company shall be issued in accordance with the provisions of this section. New shares or stock to be sold by auction or tender.

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

- (a) Notice of the intended sale shall be given in writing to the clerk to the district council of every district wholly or partly within the limits

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of supply and to the secretary of the London Stock Exchange at least seven days before the day of auction or the last day for the reception of tenders as the case may be and shall also be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the limits of supply;

- (b) A reserve price shall be fixed and notice thereof shall be sent by the Company in a sealed letter to be received by the Board of Trade not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be;
- (c) No lot offered for sale shall comprise shares or stock of greater nominal value than one hundred pounds;
- (d) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum. In the case of a sale by auction a bid shall not be recognised unless it is in advance of the last preceding bid;
- (e) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Company within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any shares or stock which have been so offered for sale and are not sold may be offered at the reserve price to the holders of ordinary and preference shares or stock of the Company in such manner as may be prescribed in a resolution passed by the directors of the Company and to the employees of the Company and to the consumers of water supplied by the Company in such proportions as the directors of the Company may think fit or to one or more of these classes of persons only. Provided in the case of an offer to holders of shares or stock that if the aggregate amount of shares or stock applied for shall exceed the aggregate amount so offered as aforesaid the same shall be allotted to and distributed amongst the applicants as nearly as may be in proportion to the amounts applied for by them respectively.

(4) Any shares or stock which have been offered for sale in accordance with the foregoing provisions of this section and are not sold shall be again offered for

sale by public auction or by tender in accordance with the provisions of this section and any such shares or stock then remaining unsold may be otherwise disposed of at such price and in such manner as the directors may determine for the purpose of realising the best price obtainable. A.D. 1928.

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

59.—(1) Notwithstanding anything in the immediately preceding section of this Act the Company may with the consent of the Minister of Health and subject to such conditions as the Minister may think fit to impose offer for subscription by the public the whole or any part of the additional capital by this Act authorised and the Company may upon any such offer pay a commission not exceeding five per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such capital or procuring or agreeing to procure subscriptions whether absolute or conditional for any such capital. Power to offer additional capital by subscription.

(2) The payment of such commission as aforesaid and the amount or rate per centum of the commission paid or agreed to be paid shall be disclosed in every prospectus advertisement or other document of the Company inviting subscriptions for such capital.

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

60. The Company may without being required to obtain the certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845 but otherwise subject to the provisions of this Act and the Acts or parts of Acts incorporated herewith borrow on mortgage of the undertaking in respect of the capital already authorised to be raised by them and in addition to the moneys which they are already authorised to borrow or raise by the issue of debenture stock any sum or sums not exceeding in the whole seven thousand five hundred pounds being the amount necessary to increase their borrowing power to one-half of the amount of capital which they are already authorised to raise. Power to borrow in respect of existing capital.

A.D. 1928.

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Power to borrow in respect of additional capital.

61. The Company may subject to the provisions of this Act raise by borrowing on mortgage of the undertaking any sum or sums not exceeding in the whole one-half part of the amount of the additional capital which at the time of borrowing has been raised under the powers of this Act. But no sum shall be borrowed in respect of any capital so raised until the Company have proved to a justice before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the additional capital at the time issued together with the premium (if any) realised on the sale thereof has been fully paid up.

Debenture stock.

62. The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 and of section 36 of the Act of 1895.

Existing mortgages to have priority.

63. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages and subject to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages granted by virtue of this Act but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Priority of money raised on mortgage or debenture stock.

64. All money to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act. Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred upon the Company.

65. Section 34 (As to appointment of a receiver) of the Act of 1895 is hereby repealed but without prejudice to any appointment heretofore made or to any proceedings pending at the passing of this Act and in lieu thereof the mortgagees of the Company 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 five thousand pounds in the whole.

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For appointment of receiver.

66. All moneys raised under this Act including premiums shall be applied only to purposes to which capital is properly applicable and any sum of money which may arise by way of premium from the issue of shares or stock under the provisions of this Act (after deducting therefrom the expenses of and incident to such issue) shall not be considered as part of the capital of the Company entitled to dividend. Provided that all such sums shall for the purpose of determining the powers of the Company to raise money by borrowing or the amount which the Company may carry to any reserve or other fund but for no other purpose be reckoned as part of the paid-up capital.

Application of moneys.

67. Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 or in any Act or Order relating to the Company the ordinary general meeting of the Company shall be held in each year in the month of February or March or at such other time as the directors may appoint and it shall not be obligatory on the Company to hold half-yearly general meetings or to balance their accounts or to make up a balance sheet half-yearly.

Ordinary meetings.

68. The directors may in any year without calling a meeting of the Company for the purpose declare and pay an interim half-yearly dividend out of the then ascertained profits of the Company.

Interim dividends.

69.—(1) The directors may close the register of transfers for a period not exceeding fourteen days previous to the declaration of any dividend and they may close the registers of transfers of mortgages and debenture stock for a period not exceeding fourteen days previous to each date at which the interest thereon shall be payable

Closing of transfer books.

A.D. 1928. — and in the case of any such register they may fix a day for closing the same of which seven days' notice shall be given either by circular to each proprietor or by advertisement in a newspaper circulating in the limits of supply.

(2) Any transfer of shares or stock or mortgages or debenture stock made during the time when the register of transfers of such shares stock or security is so closed shall as between the Company and the person claiming under the same but not otherwise be considered as made subsequent to the declaration of any such dividend or the payment of any such interest as the case may be.

As to register of shareholders &c.

70. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be obligatory upon the Company to authenticate by the affixing of their common seal or otherwise the register of shareholders or stockholders.

As to appointment of proxies.

71. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder or stockholder duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder or stockholder and for that purpose may execute on behalf of the shareholder or stockholder the necessary form of proxy provided that the instrument appointing the attorney shall be transmitted to the secretary of the Company at the same time as the instrument appointing the proxy.

Joint holders.

72. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares or stock any one of those persons may vote at any meeting either personally or by proxy in respect of the shares or stock as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares or stock shall alone be entitled to vote in respect thereof. Several executors or administrators of a deceased member in whose name any shares or stock stands shall for the purposes of this section be deemed joint holders thereof.

Receipt in case of persons not sui juris.

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

74. The Company may by agreement purchase or take on lease and maintain lands not exceeding ten acres to be used by their employees for the purpose of recreation.

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Recreation grounds for employees.

75. The directors may subscribe or make donations to infirmaries or hospitals and to convalescent homes and similar institutions and to any industrial exhibitions and to the benevolent and sick funds of the employees of the Company and may for any of those purposes apply the funds and revenues of the Company.

Power to directors to make donations &c.

76. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may from time to time determine the remuneration of the auditors of the Company and section 43 (Remuneration of the directors and auditors) of the Act of 1864 is amended accordingly.

Directors may determine remuneration of auditors.

77. It shall be lawful for the Company to make superannuation and other allowances and to pay or contribute towards pensions or gratuities to any officers servants or employees of the Company and for that purpose to apply the funds and revenues of the Company.

Power to make superannuation and other allowances.

78. Any notice to be served by the Company on a person supplied with water shall be sufficiently authenticated by the signature of the secretary or other officer of the Company for the time being authorised in writing by the directors being affixed thereto in writing or in print or by a stamp or if it be a notice to pay any charge in respect of a supply of water by the name either of the secretary or of such other officer as aforesaid being affixed thereto as aforesaid and any such notice may be served on such person either personally or by sending the same through the post by a prepaid letter addressed to him by name at his last known or usual place of abode or of business or by delivering the same to some inmate at his last known or usual place of abode or business or to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after proper inquiry unknown it shall in the case of any notice not being a notice to pay any charge be sufficient to affix such notice or a copy thereof upon some conspicuous part of such premises.

Authentification and service of notices by Company.

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Several
sums in one
summons.

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

Liability to
water rate
not to
disqualify
justices.

80. A judge of any court or a justice shall not be disqualified from acting in the execution of any Act or Order for the time being relating to the Company by reason of his being liable to any water rate.

Penalties
not cumu-
lative.

81. Penalties imposed under any Act or Order for the time being relating to the Company for one and the same offence shall not be cumulative.

Recovery of
penalties
&c.

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

Recovery of
demands.

83. Proceedings for the recovery of any demand made under the authority of any Act or Order for the time being relating to the Company, whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter. Provided that the demand does not exceed the amount recoverable in that court in a personal action.

Saving
rights of
Duchy of
Lancaster.

84.—(1) 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 hereditaments or any land parcel of any manor 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. A.D. 1928.

(2) For the purposes of the application of the Waterworks Clauses Act 1847 the prescribed distance referred to in section 22 of that Act shall in respect of the mines and minerals belonging to His Majesty in right of His said duchy be one hundred yards.

85. In the event of accident or injury through any cause whatsoever to the pipe or pipes of the Company which cross the harbour of Whitby whereby the supply of water for domestic purposes on the east side of the town of Whitby is likely to be materially interfered with the Company shall take immediate steps to provide a temporary supply and shall maintain it until the needful repairs and renewals of a more permanent character have been made Provided that the Whitby Urban District Council shall afford the Company all such facilities in their power as in the opinion of the Company will enable them to expeditiously provide and subsequently maintain such temporary supply and all costs incidental to the provision and maintenance of all the works in connection with such temporary supply and the subsequent removal thereof shall be borne by the Company. For protection of Whitby Urban District Council.

86. Sections 70 and 71 of the Act of 1864 are incorporated with and form part of this Act and shall extend and apply to the Company and to the work sanctioned and authorised by this Act respectively. For protection of London and North Eastern Railway Company.

87. All costs charges and expenses preliminary to and of and incident to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company. Costs of Act.

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The SCHEDULE referred to in the
foregoing Act.

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COMPULSORILY.

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