



CHAPTER xc.

An Act to authorise the transfer to the Southend Waterworks Company of the Western District Water Undertaking of the Rochford Rural District Council to extend the limits of the Southend Waterworks Company for the supply of water and for other purposes. A.D. 1913.
[15th August 1913.]

WHEREAS the rural district of Rochford in the county of Essex is under the jurisdiction of the Rochford Rural District Council (in this Act called "the council"):

And whereas in the year 1899 and in subsequent years the council under the powers conferred upon them in that behalf by the Public Health Act 1875 constructed in the parishes of South Benfleet Hadleigh Hawkwell Hockley Rayleigh and Rochford in the district of the council certain waterworks which are known as the Western District Water Undertaking and are in this Act called "the water undertaking":

And whereas the council are supplying water from such waterworks in the said parishes of South Benfleet Hadleigh Hawkwell Hockley Rayleigh and Rochford:

And whereas for the purposes of the water undertaking the council have raised moneys by borrowing the repayment whereof by annual instalments of principal and interest is secured by mortgages of the separate rates leviable in the said several parishes or contributory places for special expenses incurred by the council in the execution of the Public Health Act 1875 and all and every other moneys and rates (if any) which the council had power to mortgage for the purposes of such securities:

And whereas there were outstanding in respect of the moneys so raised by the council on the thirty-first day of March one

A.D. 1913. thousand nine hundred and twelve balances amounting in the whole to the sum of twenty thousand three hundred and seventy-two pounds nine shillings and threepence :

And whereas the maintenance of the water undertaking has been unremunerative and burdensome to the ratepayers of the said parishes and the council have agreed to sell and the Southend Waterworks Company (hereinafter called "the Company") have agreed to purchase the same upon the terms and conditions hereinafter contained :

And whereas it is expedient that the council and the Company should be empowered to carry such agreement into effect :

And whereas it is expedient that the limits of the Company for the supply of water should be extended so as to include the parishes aforesaid and the other parishes in the district of the council hereinafter mentioned and that the Company should be empowered to supply water and that the powers and provisions of the Southend Waterworks Acts 1879 to 1910 should be in force within such extended limits :

And whereas by the Southend Waterworks Act 1907 section 5 of the Rochford Rayleigh and Leigh Water Order 1891 confirmed by the Water Orders Confirmation Act 1891 was repealed so far as it related to the portion of the parish of Leigh therein referred to :

And whereas the works authorised by the said Order have not been constructed and the period limited thereby for the construction of the same having expired it is expedient that the said Order so far as the same is now in force and so much of the said Act as relates thereto should be repealed :

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

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 title
and citation.

1. This Act may be cited as the Southend Waterworks Act 1913 and the Southend Waterworks Acts 1879 to 1910 and this Act may be cited together and are hereinafter referred to as the Southend Waterworks Acts 1879 to 1913.

2. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with the Southend Waterworks Acts 1879 to 1910 have the same respective meanings unless there be something in the subject or context repugnant to such construction and "the date of transfer" means the date at which the water undertaking is transferred to the Company which date for the purposes of this Act shall be the first of the usual quarter days next after the passing of this Act.

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Interpreta-
tion.

3.—(1) Subject to the provisions of this Act the council shall sell and transfer to the Company and the Company shall purchase the water undertaking consisting of—

Sale of
water under-
taking to
Company.

(A) The well pumping station buildings pumps machinery and fittings situate at South Benfleet with the land and appurtenances belonging thereto or held therewith ;

(B) The water tower situate at South Benfleet adjoining the high road leading to Hadleigh with the land and appurtenances belonging thereto or held therewith ;

(C) All mains pipes valves hydrants washouts tanks engines pumps meters keys machinery apparatus implements tools plant stock and effects used by or belonging to the council in connection with the water undertaking.

(2) The purchase money or consideration for the transfer of the water undertaking shall be the following (that is to say) :—

(A) The sum of twenty thousand three hundred and seventy-two pounds nine shillings and threepence being the aggregate amount of the balances of the loans raised by the council and outstanding on the thirty-first day of March one thousand nine hundred and twelve ; and

(B) A sum equal to the actual cost to the council—

(i) of purchasing laying and fixing any mains and pipes which the council with the previous written approval of the managing director or other duly authorised officer of the Company may have laid and fixed as additions to or extensions of the water undertaking between the twelfth day of November one thousand nine hundred and twelve and the date of transfer ; and

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(ii) of making any alterations and improvements (not being ordinary working expenses or expenses of maintenance or repair) which the council with the like approval may have made in connection with the water undertaking between the before-mentioned dates.

(3) The said purchase money or consideration shall be applied or paid by the Company in manner following (that is to say):—

(A) The Company shall take over the loan indebtedness of the council in respect of the water undertaking at the amount at which the same shall stand at the date of transfer (all instalments of principal and interest payable before the date of transfer having been duly paid and discharged by the council) and so much of the said purchase money or consideration as shall be required to pay off such loan indebtedness shall be retained by the Company and applied by them in repaying the instalments of principal as the same fall due after the date of transfer and the Company shall be responsible for the payment of such instalments and of the interest accruing thereon from the date of transfer and shall indemnify the council from all liability in respect thereof:

(B) The balance of the said purchase money or consideration after allowing for any proportion of the then accruing interest on loans which shall be payable by the council under this Act shall be paid by the Company to the council in cash on the date of transfer and shall be applied by the council in or towards payment of the costs charges and expenses referred to in the section of this Act of which the marginal note is "Costs of Act" or for such other purposes to which capital is properly applicable as the council with the approval of the Local Government Board may determine:

(c) If from any cause the balance of the said purchase money or consideration shall not be paid at the date of transfer the Company shall pay to the council interest thereon at the rate of four pounds per centum per annum from the date of transfer until the time of actual payment.

(4) If any difference shall arise between the council and the Company in regard to any matters or things provided for by this section the same shall be referred to and settled by arbitration under the provisions of the Arbitration Act 1889. A.D. 1913.

(5) The loan indebtedness of the council in respect of the water undertaking shall not after the date of transfer be reckoned as outstanding in calculating the amount which the council may borrow under the Public Health Act 1875.

4. On payment to the council of the balance of the purchase money or consideration the water undertaking shall subject to the provisions of this Act be conveyed and transferred to and shall thenceforth be vested in the Company freed and discharged (except as otherwise expressly provided by this Act) from all charges debts and liabilities upon or affecting the same and thenceforth the Company shall have and hold the water undertaking. Vesting
water under-
taking.

5. The receipt in writing of the chairman and treasurer of the council for the purchase money or consideration or for so much thereof as shall be payable by the Company in cash or for any other sum of money to be paid by the Company in respect of the transfer shall effectually discharge the Company from the sum which in such receipt shall be acknowledged to have been so received and from being answerable or accountable for the loss misapplication or non-application thereof. Provided that if from any cause the Company are unable to obtain such receipt they may pay the money into the Bank of England in the name of the Paymaster-General for and on behalf of the Supreme Court to an account to be opened in the matter of this Act and a receipt shall be given to the Company by the cashier of the said bank for the money which shall have the same effect as the receipt of the said chairman and treasurer. Receipt for
purchase
money.

6. Subject to the provisions of this Act all contracts and agreements entered into or made by the council and subsisting in respect of the water undertaking at the date of transfer and then in force shall be as binding and of as full force and effect in every respect against or in favour of the Company and may be enforced as fully and effectually as if instead of the council the Company had been a party thereto. Contracts to
be binding
upon Com-
pany.

7. The council shall bear and pay all outgoings (including interest on outstanding loans) accruing up to the date of transfer and all liabilities in respect of causes of action then existing Council to
pay out-
goings &c.

A.D. 1913. and shall be entitled to all water rents and other debts due to them and to all receipts from the water undertaking up to the date of transfer. Provided that nothing in this Act contained shall entitle the council to retain so much of any rents and other revenue of the water undertaking paid or payable in advance as shall be attributable to any period after the date of transfer and so much thereof as is attributable to any period after the date of transfer shall be paid by the council to the Company.

Council to carry on water undertaking till transfer.

8. Until the date of transfer the council shall carry on the water undertaking in the ordinary course of business and shall maintain all the works and other property belonging thereto and held therewith in good and substantial repair to the reasonable satisfaction of the Company.

Books and documents to remain evidence.

9. All documents books and writings which if the transfer had not been made would have been receivable in evidence in respect of any matter for or against the council shall after the date of transfer be admitted in evidence in respect of the same and the like matter for or against the Company.

As to fire plugs.

10. The hydrants or fire plugs existing at the date of transfer within the parishes of South Benfleet Hadleigh Hawkwell Hockley Rayleigh and Rochford shall be deemed to be fire plugs within the meaning of sections 38 to 40 of the Waterworks Clauses Act 1847.

Repeal of Rochford Rayleigh and Leigh Water Order 1891.

11. From and after the date of transfer so much of the Rochford Rayleigh and Leigh Water Order 1891 confirmed by the Water Orders Confirmation Act 1891 as is in force at the date of the passing of this Act and so much of the said Act as relates to such Order are hereby repealed.

Extension of limits of Southend Waterworks Company for supply of water.

12. From and after the date of transfer the limits within which the Company may supply water and exercise the powers conferred upon them by the Southend Waterworks Acts 1879 to 1910 shall extend to and include the parishes of Ashingdon South Benfleet Canewdon Canvey South Fambridge Foulness Hadleigh Hawkwell Hockley Paglesham Rawreth Rayleigh Rochford Great Stambridge and Little Stambridge all in the rural district of Rochford and county of Essex and within and throughout such extended limits the Southend Waterworks Acts 1879 to 1910 and the Acts incorporated therewith or with any of them and all byelaws and regulations made thereunder shall thenceforth for all purposes be in full force and have effect.

13.—(1) Save as hereinafter mentioned in this section the Company shall not without the consent of the Port of London Authority lay down or place any mains pipes culverts or other works in under over along or across or otherwise interfere with the bed soil or shores of the River Thames within the limits of the Port of London as defined by the Port of London Act 1908 or of any creeks or tributaries the bed soil or shores whereof are vested in the Port of London Authority or in any way interfere with the navigation of the River Thames or any creeks or tributaries thereof as aforesaid Provided always that for the purpose of supplying water in that part of their limits of supply as extended by this Act which is known as Canvey Island the Company may subject to such reasonable conditions as the Port of London Authority may impose for the protection of the navigation lay down maintain and use mains pipes and other works in the bed of that part of the River Thames known as Benfleet Creek and if the Company object to any condition imposed by the Port of London Authority as being unreasonable they shall have the same right of appeal to the Board of Trade in respect thereof as that provided by subsection (2) (i) of section 7 of the Port of London Act 1908 :

A.D. 1913.
For protec-
tion of Port
of London
Authority.

Provided also that the consideration payable to the Port of London Authority in respect of the laying down and maintaining of such mains pipes or other works in or across Benfleet Creek shall except in the case of any mains pipes or other works to be laid down or maintained in or under the ancient public highway known as the Hard or Causeway (in which case no consideration shall be payable) be assessed in accordance with the provisions of section 116 of the Thames Conservancy Act 1894 or any statutory provision in lieu thereof for the time being in force.

(2) Nothing in this Act shall extend to or be construed to extend to prejudice or derogate from the estates rights interests privileges liberties or franchises of the Port of London Authority or to prohibit defeat alter or diminish any power authority or jurisdiction which at the time of the passing of this Act the Port of London Authority did or might lawfully claim use or exercise under and by virtue of the Port of London Act 1908 or otherwise.

14. Section 21 (For protection of Great Eastern Railway Company) of the Southend Waterworks Act 1907 shall apply to all works and operations of the Company within their limits for the supply of water as extended by this Act which

For protec-
tion of Great
Eastern
Railway
Company.

A.D. 1913. in any way affect any lands premises or works of the Great Eastern Railway Company as if that section had been re-enacted herein.

For protec-
tion of Essex
County
Council.

15. For the protection of the county council of the administrative county of Essex (in this section called "the county council") the following provision shall unless otherwise agreed in writing between the Company and the county council apply and have effect within the parishes added under the provisions of this Act to the existing limits of the Company for the supply of water (and which parishes are in this Act called "the added limits") (that is to say):—

(1) All works shall be so executed by the Company as not to stop or (so far as is reasonably practicable) impede or interfere with the traffic on any main road or over any county or main road bridge or the approaches thereto and the Company shall not break up at any one time a greater length than four hundred yards of any main road:

(2) If any difference arises at any time between the county council and the Company touching this section or anything to be done thereunder such difference shall be settled by the arbitration of an engineer (whose decision shall be final) to be agreed upon between the county council and the Company or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party and subject thereto the Arbitration Act 1889 shall apply to such arbitration.

Power to
local autho-
rity to sup-
ply water in
case Com-
pany fail to
supply.

16. If after the expiration of five years from the date of transfer the Company are not furnishing or prepared on demand to furnish a sufficient supply of water in accordance with the provisions of this Act throughout the district of any local authority within the extended limits of supply the local authority of such district may provide a supply in accordance with the provisions of the Public Health Act 1875 or the local authority or any company body or person may apply for an Act of Parliament or Provisional Order for the purpose of supplying water in any part of such district not sufficiently supplied by the Company as if in either case this Act had not been passed. If any difference shall arise between the Company and any such

local authority company body or person as to the sufficiency of the supply of water in any part of such district such difference shall be settled by an arbitrator to be appointed on the application of either party by the Board of Trade. A.D. 1913.

17. The Company may apply to any of the purposes of this Act to which capital is properly applicable any of the moneys which they now have in their hands or which they have power to raise by shares stock debenture stock or mortgage under and by virtue of the Southend Waterworks Acts 1879 to 1910 and which may not be required for the purposes to which they are by any of those Acts made specially applicable. Power to Company to apply moneys to purposes of Act.

18.—(1) All costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the Taxing Officer of the House of Lords or of the House of Commons shall be paid by the council out of any moneys in their hands or ultimately (if the council so determine) out of moneys to be borrowed under this Act. Costs of Act.

(2) The said costs charges and expenses in so far as they are not defrayed in manner provided by the section of this Act of which the marginal note is "Sale of water undertaking to Company" shall be deemed to be special expenses within the meaning of the Public Health Act 1875 chargeable on the parishes of South Benfleet Hadleigh Hawkwell Hockley Rayleigh and Rochford and shall be apportioned between the said parishes so that the amount apportioned to each parish shall be in the proportion which the assessable value of the parish as ascertained by a special assessment in pursuance of section 230 of the said Act for the purpose of a separate rate leviable for defraying special expenses bears to the aggregate assessable value of the said parishes as so ascertained.

(3) The council may in addition to any moneys they are or may be authorised to borrow under the provisions of the Public Health Acts or any public general Act borrow at interest such sum as may be required for paying the said costs charges and expenses and for the purpose of securing the repayment of such sum with interest thereon may mortgage or charge the rates leviable for the purpose of defraying the said costs charges and expenses as hereinbefore provided.

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(4) Any moneys so borrowed shall be repaid within five years from the date of the passing of this Act and subject thereto the provisions of the Public Health Act 1875 with respect to the repayment by a local authority of moneys borrowed under that Act shall apply to the repayment of any moneys borrowed by the council under this Act.

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