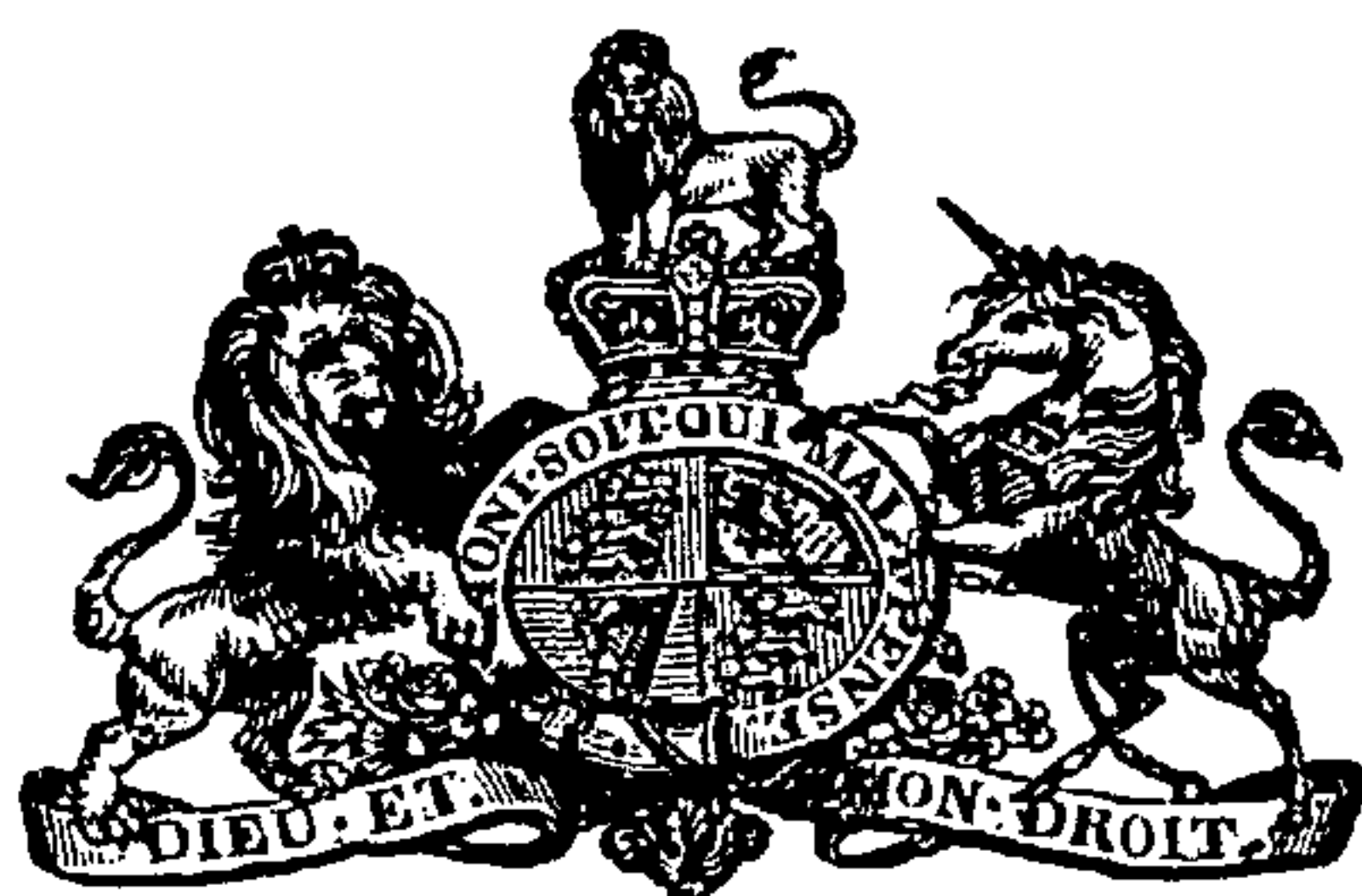


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Act, 1889.



CHAPTER xxxvi.

An Act for the granting of further powers to the Newcastle and Gateshead Water Company; and for other purposes. A.D. 1889.
[24th June 1889.]

WHEREAS the Newcastle and Gateshead Water Company (in this Act called "the Company") were incorporated by the Newcastle and Gateshead Waterworks Act 1863 and acting under the powers of that Act the Newcastle and Gateshead Waterworks Act 1866 the Newcastle and Gateshead Waterworks Act 1870 the Newcastle and Gateshead Waterworks Act 1876 and the Newcastle and Gateshead Waterworks Act 1877 (which Acts are in this Act referred to collectively as "the former Acts" and each of them separately as an Act of the year in which the same was passed) the Company have constructed an extensive system of waterworks whereby they supply with water the city and county of Newcastle-upon-Tyne and the borough of Gateshead and certain parishes and places adjacent and near thereto respectively:

26 & 27 Vict.
c. xxxiv.
28 & 29 Vict.
c. xlix.
33 & 34 Vict.
c. cxxiii.
39 & 40 Vict.
c. cxcii.
40 & 41 Vict.
c. lxxxvii.

And whereas in view of the increasing population and demand for water within the limits of the former Acts it is expedient that the Company be empowered to construct additional works and obtain a further supply of water:

And whereas it is expedient that the Company be authorised to raise additional capital for the purposes of this Act and for the general purposes of their undertaking:

And whereas it is expedient that the powers of the Company be enlarged and that the Acts relating to the Company be extended and amended:

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

And whereas plans and sections showing the lines situations and levels of the works authorised by this Act and also a book of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands

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A.D. 1889. — required or which may be taken for the purposes of or under the powers of this Act were duly deposited with the clerk of the peace for the county of Northumberland and are herein-after 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 Queen'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 (that is to say) :—

Short title. 1, This Act may be cited as the Newcastle and Gateshead Waterworks Act 1889.

Incorporation of general Acts.

2. The following Acts :—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 (in this Act called " the Lands Clauses Acts ") ;

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof (but for the purpose only of constructing the reservoirs and works immediately connected therewith by this Act authorised and such portion of the conduits or lines of pipes by this Act authorised as are to be made in tunnel) ; and

The Waterworks Clauses Acts 1847 and 1863 except the words in section 44 of the former of such Acts " with the consent in " writing of the owner or reputed owner of any such house or " of the agent of such owner " ;

so far as the same are applicable for the purposes of and not inconsistent with the provisions of this Act are incorporated with and form part of this Act :

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

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

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

The forfeiture of shares for non-payment of calls ;

The remedies of the creditors of the Company against the shareholders ;

The consolidation of shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders (except section 66 " Ordinary meetings to be held half yearly ") ;

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The making of dividends ;

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

The giving of notices ; and

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

And Part I. (relating to cancellation and surrender of shares) Part
II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 shall (subject to the provisions of this Act) extend and apply to the Company and the additional capital by this Act authorised to be raised.

3. Terms to which meanings are assigned in Acts incorporated wholly or in part with this Act or which have therein special meanings have in this Act (unless varied thereby) the same respective meanings and in this Act and (for the purposes of this Act) in Acts incorporated wholly or in part with this Act the expression—

Interpretation.

“Superior courts” or “court of competent jurisdiction” or any other like expression shall have effect as if the debt or demand with respect to which it is used were a common simple contract debt and not a debt or demand created by statute.

In the Railways Clauses Consolidation Act 1845 for the purposes of this Act—

The expressions “the railway” “the work” and “the centre of the railway” respectively mean the reservoirs and works immediately connected therewith and the said portions of conduits and lines of pipes and the boundaries thereof by this Act authorised.

4. Subject to the provisions of this Act the Company in the lines and situations and upon the lands shown on the deposited plans and according to the levels shown on the deposited sections may make and maintain the reservoirs conduits lines of pipes extensions deviations alterations diversions and other works shown on the deposited plans among which are the following principal works (that is to say):—

Power to construct works.

1. A reservoir in the townships of Rochester and Troughend (High Part) in the parish of Elsdon in Northumberland (to be called “the Catcleugh Reservoir”) to be formed by means of an embankment or dam six chains or thereabouts in length across the valley of the River Rede ;
2. A conduit or line of pipes (Number 1) commencing in the said township of Rochester in the said intended reservoir and terminating in the township of Little Swinburn in the parish

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of Chollerton in Northumberland by a junction with the existing conduit of the Company leading from their "Little Swinburn Reservoir" to their "Hallington Reservoir";

3. A reservoir or relieving tank in the township and parish of Corsenside in Northumberland (to be called "the Brig Reservoir") to be situate in the south-western corner of a field forming part of "Brig" Farm and near to the conduit or line of pipes Number 1 and to be connected with that conduit or line of pipes by branch pipes thereto and therefrom;
4. A conduit or line of pipes (Number 2) commencing in the township of Rudchester in the parish of Ovingham in Northumberland by a junction with the existing conduit of the Company at a shaft thereon situate in Blakeley Plantation on the north side of the road from Horsley to Heddon-on-the-Wall and terminating in the township of Throckley in the parish of Newburn by a junction with the same conduit in or under the main road from Hexham to Newcastle-upon-Tyne;
5. A conduit or line of pipes (Number 3) commencing in the township and parish of Newburn in Northumberland by a junction with the existing conduit of the Company leading from Throckley to Newcastle at a point about five chains north of the Newburn pumping station of the Company and terminating in the township of Elswick in the parish of Saint John in the city and county of Newcastle-upon-Tyne by a junction with the existing main pipes of the Company in Hinde Street;
6. A conduit or line of pipes (Number 4) wholly in the said township and parish of Newburn commencing by a junction with the existing conduit of the Company leading from Throckley to Newcastle at a point about five chains north-west of the pumping station aforesaid and terminating by a junction with the intended conduit or line of pipes Number 3 at a point in the road leading from Newburn Grange to Newburn.

Power to
make subsi-
diary works.

5. The Company in addition to the foregoing works may from time to time upon any lands acquired or to be acquired by them make and maintain all such cuts channels catchwaters aqueducts culverts tunnels drains sluices by-washes weirs gauges wells water-towers filter-beds tanks banks walls approaches engines machinery and appliances as may be necessary or convenient in connexion with the before-mentioned works or any of them but nothing in this section shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused by them.

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6. Subject to the provisions of this Act the Company may enter upon take and use such of the lands shown on the deposited plans and described in the deposited book of reference and any easement right or privilege in or over the same as they require for the purposes of this Act and may divert collect impound take appropriate and use for the purposes of the Company the waters of the River Rede at or by means of the said Catcleugh Reservoir :

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Power to
take lands
and waters.

Provided that the owners and occupiers of and all other parties interested in or injuriously affected by the abstraction of water by the Company from the River Rede shall (unless otherwise agreed between the parties) be entitled to claim and receive compensation in money for any loss damage or injury sustained by them according to the provisions of the sixth section of the Waterworks Clauses Act 1847 :

Provided also that the Company shall not enter upon take or use the lands numbered on the deposited plans 19 in the township of Throckley in the parish of Newburn belonging or reputed to belong to the Lords Commissioners of the Admiralty in trust for Greenwich Hospital except with the previous consent in writing of the said Lords Commissioners.

7.—(1.) The Company shall at or near to the said embankment or dam make and thenceforward maintain in an efficient state a fish-pass in such position and form and of such dimensions as may be determined by the Board of Trade and if the Company fail herein they shall incur a penalty not exceeding twenty-five pounds for every day or part of a day such failure shall continue and it shall be lawful for the said Board to cause to be done any work by this sub-section required to be done by the Company and to recover the expense of so doing in a summary manner from the Company.

As to com-
pensation
water.

(2.) Before the Company shall at any time take any water from the said river they shall permit to flow down the said fish-pass or other passage to be approved by the Board of Trade in a continuous stream during every day of twenty-four hours the following quantities of water if and when and so long as the said river shall during the said twenty-four hours yield the same respectively (that is to say) :—

(A.) Four and a half million gallons in every such day during the months of February March and April in every year ; and

(B.) Two million gallons in every such day during the other months in every year ;

and in case of default the Company shall be liable to a penalty of not exceeding twenty-five pounds for every day or part of a day during which such default shall continue.

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(3.) The Company shall construct to the satisfaction of the Board of Trade and for ever thereafter maintain such works as shall be necessary to carry into effect the provisions of this section and the said works shall be respectively open to the inspection and examination of the Board of Conservators having under any Acts relating to fisheries jurisdiction within the said River Rede and their water bailiffs and to the Board of Trade and their inspectors.

(4.) If at any time any of the said works shall in the opinion of the Board of Trade be in an unfit state of repair or condition for the purposes for which they are intended the same shall forthwith be put into a proper and efficient state of repair and condition by and at the expense of the Company or if they fail so to do within twenty-eight days after notice given to them by the said Board of Conservators requiring them so to do it shall be lawful for that Board to cause such repairs to be done and performed in connexion with the said works as shall be necessary for placing them in a proper and efficient state and condition and to recover the expenses of such repairs with full costs of suit against the Company in any court of competent jurisdiction without prejudice to the daily penalties.

(5.) If any difference arise between the Company and the Board of Conservators as to the state of repair and condition of the said works such difference shall be determined by the Board of Trade.

(6.) The said quantities of water shall be accepted and taken as full compensation to the salmon and freshwater fisheries of the district for all water of the River Rede or its tributaries above the dam of the Catcleugh Reservoir which the Company can divert collect impound take appropriate and use for the purposes of the Company by means of the exercise of the powers of this Act.

(7.) The Company shall at their own costs and charges before they take any water for the purposes of their undertaking erect and maintain across the channel used for taking water from the said reservoir for supplying the works of the Company with water a mesh or grating of such form and in such manner as may be approved by the Board of Trade and if the Company fail to put up such mesh or grating as they are hereby required to do they shall incur a penalty not exceeding twenty-five pounds for every day or part of a day during which such failure continues and if the Company fail so to maintain the said mesh or grating after the same shall have been so put up they shall incur a penalty not exceeding twenty-five pounds for every day during which such failure continues.

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(8.) All penalties incurred by the Company under this section shall be recovered and applied in the manner directed by the Salmon and Freshwater Fisheries Acts 1861 to 1886 for the recovery and application of penalties imposed by those Acts or any of them. A.D. 1889.

(9.) For the purposes of the Salmon and Freshwater Fisheries Acts 1861 to 1886 the said reservoirs and channels by this Act authorised to be made and maintained by the Company except the conduit or line of pipes Number 1 and channels (if any) by this Act authorised to be made by the Company in lands of John Giffard Riddell situate in the said parish of Chollerton shall be held to be part of the River Rede: Provided that nothing shall be deemed to authorise any interference with the works by this Act authorised except as expressly provided by this section.

8. In the construction of the works authorised by this Act the Company may deviate laterally to any extent not exceeding the limits of the lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries or fences of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding three feet upwards and ten feet downwards: Limits of deviation.

Provided that if it be found necessary or expedient in the construction of either of the reservoirs by this Act authorised to alter the situation of any embankment or retaining wall the Company may (within the limits of deviation) in the construction thereof and of the works connected therewith deviate vertically from the levels of such embankments or retaining walls reservoirs and works to any extent not exceeding twenty feet but the Company shall not construct any embankment or wall of the said reservoirs of a greater height above the general surface of the ground than that shown on the deposited sections and three feet in addition.

9. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of five years from the passing thereof. Period for compulsory purchase of lands.

10. If any works authorised by this Act are not completed within the period of ten years from the passing of this Act then on the expiration of such period the powers by this Act granted to the Company for executing the same or in relation thereto shall cease except as to so much thereof as is then completed but nothing in this Act shall restrict the Company from extending enlarging altering reconstructing or removing any of their tanks tunnels engines sluices machinery apparatus filter-beds mains pipes or other Period for completion of works.

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A.D. 1889. works or plant at any time and from time to time as occasion may require.

Power to
take addi-
tional lands
by agree-
ment.

11. The Company may from time to time for the purposes of their undertaking acquire by agreement either in fee simple or for any term or terms of years in addition to lands which they are already authorised to hold under the powers of the former Acts or to take by compulsion under the powers of this Act any lands not exceeding in the whole fifty acres or any easement right or privilege therein thereunder or thereover not being an easement or privilege of water but the Company shall not deal with such lands so as to create a nuisance nor use any such lands for any building except buildings required for the undertaking of the Company.

Power to
take ease-
ments.

12. Persons empowered by the Lands Clauses Consolidation Act 1845 or otherwise enabled to sell and convey or release lands may subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company in fee either absolutely or in consideration of any yearly or other rent any easement interest right privilege or power (not being an easement of water) required for the purposes of this Act in or over affecting or belonging to 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 interests rights privileges and powers as aforesaid respectively.

Sale of
superfluous
lands.

13. The Company may subject to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of superfluous lands from time to time sell lease or otherwise dispose of in such manner and to such persons as the Company think fit any lands houses or other property for the time being belonging to the Company which they do not require for the purposes of their undertaking and in any such sale or lease the Company may reserve to themselves all or any water or water rights or other easements belonging to the lands sold or leased and may make the sale or lease for such consideration and subject to such reservations conditions restrictions or provisions and generally upon such terms and conditions as the Company think fit.

As to taking
houses of
labouring
class.

14.—(1.) The Company shall not (except with the previous consent in writing of the Local Government Board) under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or in any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December

last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers. A.D. 1889.

(2.) For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

15. The Company may make and carry into effect agreements with the owners lessees or occupiers of any lands within the drainage area of the reservoirs and works by this Act authorised 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 by this Act authorised to be diverted collected and appropriated by the Company flowing to upon or from such lands directly or derivatively into such reservoirs and works. Power to agree as to drainage of lands, &c.

16. The agreement dated the twenty-first day of May one thousand eight hundred and eighty-nine and made between the Company of the one part and the Most Noble Algernon George Duke of Northumberland of the other part so far as the same is set forth in the schedule to this Act is hereby confirmed and made binding on all parties. Confirmation of agreement in schedule.

17. Section 13 (as to supply to Gateshead above the level of three hundred and eighty feet) of the Act of 1876 is hereby repealed and section 104 (as to service beyond a certain elevation) of the Act of 1863 shall not apply to the chapelry of Heworth in the county of Durham nor to that part of the borough of Gateshead which is situate more than three hundred and eighty feet above the level of an ordinary spring tide at Newcastle. As to supply above a certain elevation.

18. The following provisions for the protection and benefit of the mayor aldermen and citizens of the city and county of Newcastle-upon-Tyne (respectively referred to as the corporation and the city) shall apply and have effect (that is to say):— For the protection of the corporation of Newcastle-upon-Tyne.

(1.) In order to secure a proper supply of water for domestic purposes and also to enable the Company to supply water for trade purposes under the separate system authorised by section 9 of the Act of 1876: If on the first day of any of the months respectively herein-after mentioned in that behalf the

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water in the reservoirs of the Company shall fall below the respective quantities herein-after specified the Company shall so far as their present pumping machinery at Wylam shall enable them so to do pump from the River Tyne sufficient water to make up the quantity of water in the said reservoirs to the said respective amounts :

The following are the months and quantities above referred to (that is to say) :—

July one thousand four hundred million gallons ;

August one thousand two hundred and fifty million gallons ;

September eight hundred and fifty million gallons ;

October six hundred million gallons :

Provided that if the Company shall in any of the said months pump water up to the quantity specified in respect of that month the Company shall not be under any obligation during the remainder of that month to continue to pump from the River Tyne.

(2.) Section 29 (supply of water not to be afforded to the prejudice of domestic supply) of the Act of 1870 is hereby repealed and in lieu thereof be it enacted that no supply of water by the Company shall be afforded to the North Shields Water Company so long as such supply shall interfere with the sufficiency of the general supply by the Company for domestic purposes and the standard of sufficiency shall be the constant possession day by day by the Company in the whole of their combined reservoirs of not less than five hundred million gallons of water between the first day of May and the thirtieth day of September in every year.

(3.) The town clerk of the city or the city engineer or any other person authorised in that behalf by the council of the city may at all reasonable times at the office of the Company inspect and take copies of the record kept by the Company of the daily quantity of water in store in their reservoir and the gaugings of the quantity of water supplied to the city.

(4.) For the better supply of water under high pressure for the extinction of fire the Company shall at the request of the corporation fix a fire hydrant at the junction of every new branch main with the main to which it is attached such hydrant being provided by the corporation and fixed by and at the cost of the Company.

(5.) When the Company shall repair replace or renew any main or when any main shall be otherwise accessible for the purpose

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the Company shall at the request of the corporation fix a fire hydrant to such main such hydrant with all necessary material being provided by the corporation and fixed by and at the expense of the Company. A.D. 1889.

(6.) Where in accordance with this section any fire hydrants are fixed the Company shall not be under any obligation to provide fireplugs within two hundred yards of any such hydrant.

19. The Company may apply to the purposes of this Act to which capital is properly applicable any moneys they are authorised to raise and which they do not require for the purposes for which such moneys were authorised to be raised and may (subject to the provisions of Part II. of the Companies Clauses Act 1863) for the purposes of this Act and for the general purposes of their undertaking from time to time raise any additional capital not exceeding in the whole five hundred thousand pounds by the creation and issue at their option of new ordinary shares or stock or new preference shares or stock or wholly or partly by one or more of those modes which shares or stock shall for all purposes form part of the general capital of the Company. Company may raise additional capital.

20. The Company shall not issue any share created under the authority of this Act of less nominal value than ten pounds nor shall any such share vest in the person or corporation accepting the same unless and until the full nominal amount of such share (if the same be issued at or above par) together with any premium obtained upon the sale thereof shall have been paid in respect thereof: Provided that it shall not be lawful for the Company to create and issue under the powers of this Act any greater nominal amount of capital than shall be sufficient to produce including any premiums which may be obtained on the sale thereof the sum of five hundred thousand pounds. As to vesting of new shares.

21. The proprietors of any shares or stock to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented thereby would have entitled them to if the same had been original shares or stock of the Company. As to votes of proprietors of new shares or stock.

22. The Company shall not in any one year make out of their profits any larger dividend on the additional share capital to be raised under the powers of this Act than at the rate of five pounds in respect of every one hundred pounds actually paid up of such capital as shall be issued as ordinary capital or five 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 be Limit of dividend on new capital.

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A.D. 1889. at any time necessary to make up the deficiency of any previous dividend on the ordinary share capital which shall have fallen short of the said sum of five pounds per centum per annum.

Dividends on different classes of shares or stock to be paid rateably.

23. In case in any year the net revenue of the Company applicable to dividend shall be insufficient to pay the full amount of the maximum dividend to which each class of ordinary shares or ordinary stock in the capital of the Company is entitled a proportionate diminution shall be made in the rate of dividend then to be paid in respect of each class.

New shares or stock to be offered by auction or tender.

24. Notwithstanding anything in this Act contained the Company shall when any new shares or stock created under the powers of this Act are to be issued and before offering the same to the holder of any other shares or stock in the Company and whether the ordinary shares or ordinary stock of the Company are or is at a premium or not offer the same for sale by public auction or by tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine: Provided that at any such sale no single lot shall comprise more than five hundred pounds nominal value of shares or stock and that the reserved price put upon such shares or stock shall not be less than the nominal amount thereof and notice of the amount of such reserved price shall be sent by the Company in a sealed letter to the Board of Trade not less than twenty-four hours before the day of auction or the last day for the reception of tenders as the case may be and such letter may be opened after such day of auction or last day for the reception of tenders and not sooner and provided that no priority of tender shall be allowed to any holder of shares or stock in the Company except that if any bidding or offer by tender of any holder or holders of shares or stock be the same in amount as any bid or offer made by any other person the bidding or offer of such holder or holders of shares or stock shall be accepted in preference.

Time for paying up shares or stock sold by auction.

25. It shall be one of the conditions of any sale of shares or stock under this Act that the whole nominal amount thereof together with any premium given by any purchaser at such sale shall be paid to the Company within three months after such sale.

Notice to be given as to sale &c. of shares or stock.

26. The intention to sell any such shares or stock by auction or by tender shall be communicated in writing to the town clerk of the city and county of Newcastle-upon-Tyne and to the town clerk of the borough of Gateshead and to the Secretary of the Committee of the London Stock Exchange at least twenty-eight days before the day of auction or the last day for the reception of tenders as

the case may be and notice of such intention shall be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the said city and borough.

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27. When any shares or stock created under the powers of this Act have been offered for sale by auction or tender and not sold the same shall be offered at the reserved price put upon the same respectively for the purpose of sale by auction or tender to the holders of ordinary shares or ordinary stock of the Company in manner provided by the Companies Clauses Act 1863: Provided always that any shares or stock so offered and not accepted within the time prescribed by the said Act shall again be offered for sale by public auction or by tender subject to and in accordance with the foregoing provisions of this Act with respect to the sale of shares and stock but at a lower reserved price than the price put upon the same at the preceding offer thereof for sale by auction or tender (not being less than the nominal value of the shares or stock so offered) and any shares or stock not then sold shall be again offered to the holders of ordinary shares or ordinary stock at the last-mentioned reserved price and so from time to time on failure of any sale or offer.

Shares or stock not sold by auction or by tender to be offered to shareholders.

28. Any sum of money which shall arise by way of premium from the issue of any such shares or stock after deducting therefrom the expenses of and incident to such issue shall not be considered as profits of the Company but shall be expended in extending or improving the works of the Company or in paying off money borrowed or owing on mortgage by the Company and shall not be considered as part of the capital of the Company entitled to dividend.

Application of premium arising on issue of shares or stock.

29. The Company in respect of the additional capital of five hundred thousand pounds which they are by this Act authorised to raise may from time to time borrow on mortgage any sum or sums not exceeding in the whole one hundred and twenty-five thousand pounds: Provided that in respect of every twenty-five thousand pounds of such additional capital issued and accepted and one half whereof shall have been paid up the Company may borrow a sum or sums not exceeding in the whole six thousand two hundred and fifty pounds: But no part of any of the before-mentioned sums of six thousand two hundred and fifty pounds shall be borrowed until shares for so much of the said portion of the additional capital in respect of which the borrowing powers are to be exercised as is to be raised by means of shares are issued and accepted and one half of such capital is paid up and the Company have proved to the justice who

Power to borrow in respect of additional capital authorised by this Act.

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A.D. 1889. — is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such portion of additional capital have been issued and accepted and that one half of such portion has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one half of so much of each portion of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Repealing
existing pro-
visions as to
receiver.

30. Section 29 (for appointment of a receiver) of the Act of 1876 is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings pending at the passing of this Act under any such provision.

For appoint-
ment of a
receiver.

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

Existing
mortgages
to have
priority.

32. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament and which shall be subsisting at the time of 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 to be granted by virtue of this Act but nothing in this section shall affect the priority of the interest of any debenture stock at any time created and issued by the Company.

Debenture
stock.

33. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 but notwithstand-

ing anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages. A.D. 1889.

34. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or by the creation and issue of debenture stock or any part thereof respectively by the creation of shares or stock instead of by borrowing or to convert into capital any money borrowed under the powers of this Act. As to conversion of borrowed money into capital.

35. All and every part of the sums of money which the Company are by this Act authorised to raise by new shares or stock or by borrowing shall be applied only to the purposes of this Act and to the general purposes of their undertaking being in all cases purposes to which capital is properly applicable. Application of sums raised under this Act.

36. All costs charges and expenses preliminary to and of and incidental 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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A.D. 1889.

The SCHEDULE referred to in the foregoing Act.

AN AGREEMENT made this twenty-first day of May one thousand eight hundred and eighty-nine between the Newcastle and Gateshead Water Company (herein-after called "the Company") of the one part and the Most Noble Algernon George Duke of Northumberland Knight of the Most Noble Order of the Garter (herein-after called "the Duke") of the other part.

WHEREAS the Company are promoting a Bill in Parliament for an Act for the granting of further powers to the Company and for other purposes:

And whereas the Duke is tenant for life in possession of divers lands and hereditaments in the parishes of Elsdon Corsenside Birtley Chollerton and Newburn in the county of Northumberland all which lands and hereditaments are herein-after referred to as "the estate":

And whereas it is proposed by the Company under the powers of the said Act and of the Acts to be incorporated therewith to take by agreement or compulsion parts of the estate and to make divers reservoirs conduits lines of pipes and other works thereon and to take and use water from the River Rede and other streams and burns and springs flowing through or arising in the estate and the Duke considering that the estate will be prejudiced by the intended purchases works and proceedings of the Company has been opposing the said Bill in Parliament and has consented to withdraw such opposition upon this agreement being entered into between the Company and himself:

Now these presents witness that in consideration of the premises the Company do hereby agree with the Duke and his heirs and assigns (including in the expression "heirs and assigns" all persons who may be or shall become entitled to or interested in the estate in remainder or reversion expectant upon the determination of the estate for life of the Duke or in possession after his decease or otherwise) and the Duke so far as relates to his own acts and so far if at all as he has or will under the said Act or the Acts to be incorporated therewith or otherwise have power to bind the estate or the persons who may or shall become so entitled or interested as aforesaid doth hereby agree with the Company as follows (that is to say):—

1. In any and every contract with and conveyance by the Duke his heirs or assigns to the Company of any part or parts of the estate there shall be reserved to the Duke his heirs and assigns in such manner and form as he or they shall reasonably require exclusive right and liberty of fishing shooting and sporting in or upon the lands contracted to be sold or conveyed including as part of such lands any reservoir or part of a reservoir to be constructed thereon And also excepting and reserving unto the Duke his heirs and assigns right

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and liberty to erect a boat-house on such part of the lands contracted to be sold or conveyed as may be convenient but not upon the dam or any made part of the embankment of the Company And also right and liberty to place and use a boat or boats not exceeding two boats for shooting or fishing on such reservoir from such place on the bank and in such manner as the Duke his heirs or assigns shall see fit and to transport such boat or boats to and from the reservoir but so nevertheless that all persons exercising the said rights and liberties shall be subject to the provisions for guarding against fouling the water of the Company contained in the Waterworks Clauses Act 1863 and in any of the Company's Acts.

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2. If at any time by reason of the user or enjoyment for agricultural or residential purposes of any lands or hereditaments of the Duke his heirs or assigns the part of the River Rede or any other stream or burn or any spring flowing into the Company's proposed reservoir at Catcleugh shall be or be liable to be polluted or if at any time by reason of the user or enjoyment for any purpose of any lands or hereditaments of the Duke his heirs or assigns immediately adjoining the reservoir the water in the reservoir shall be or be liable to be polluted the Company shall at their own expense execute and do all such works and things upon their own lands and pay the cost of executing and doing all such works and things upon lands of the Duke his heirs or assigns as it may be necessary or expedient in the interests of the Company should be executed or done for stopping or preventing such pollution and shall also compensate the Duke his heirs or assigns and his and their tenants for all damage done or occasioned in the execution of such works and things.

3. The Company shall at their own expense when making any conduit or line of pipes by the said Act authorised to be made through the estate put in such and so many junctions at such places but not exceeding one junction to or for each farm detached farm residence or farmstead as the Duke his heirs or assigns shall by writing demand for the purpose of enabling the Duke his heirs or assigns from time to time to take from such conduit or line of pipes by means of pipes to be laid and connected with such junctions at such time or times as the Duke his heirs or assigns shall think fit and at his or their expense such a supply or such supplies of water as the Duke his heirs or assigns may require for any lands or hereditaments belonging to him or them through or near to which such conduit or line of pipes shall pass and shall permit the Duke his heirs or assigns to connect his or their pipes with such junctions and to take a supply or supplies of water as aforesaid but such supply shall not in the aggregate exceed ten thousand gallons per day unless such quantity shall not be sufficient for the domestic use and for the cattle of the farm tenants and their cottagers and in such case such quantity shall be settled by Thomas Gow of Cambo and such supply as aforesaid shall be paid for by the Duke his heirs or assigns at the rate of threepence per one thousand gallons.

4. For the purpose of preventing trespass upon lands and hereditaments of the Duke his heirs or assigns no servant of the Company shall go upon or pass along any part of the estate through or over which the Company shall have acquired an easement or any lands acquired by the Company by virtue of the powers of the said Act or the Acts incorporated therewith unless such servant

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A.D. 1889. shall be wearing some distinguishing uniform or badge or hold some written or printed authority and be engaged on the business of the Company and every time any servant of the Company shall act in contravention of this article of this agreement the Company undertake on a written demand to dismiss him from their employment.

5. This agreement is proposed and intended to be annexed as a schedule to the said Act and to be confirmed thereby and shall be subject to any alterations which Parliament may think fit to make therein and shall be void if the said Bill shall not pass into an Act.

As witness the day and year aforesaid.

The seal of the Company was this day affixed in the presence of

GEO. SMITH,
Secretary.

L.S.

Witness to the signature of the said Algernon
George Duke of Northumberland
R. PANTLING
Butler
Albury Park.

NORTHUMBERLAND.

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