



CHAPTER ccxxx.

An Act to authorise the transfer to the South Lincolnshire Fen Water Company of the Undertaking of the Spalding Waterworks Company and for other purposes. A.D. 1890.

[14th August 1890.]

WHEREAS by the South Lincolnshire Fen Water Act 1888 (in this Act called "the Act of 1888") the South Lincolnshire Fen Water Company (in this Act called "the Company") were incorporated and authorised to construct the works more particularly described in that Act and to supply water within the parishes and townships in the county of Lincoln more particularly described in that Act :

And whereas by the Spalding Waterworks Act 1860 (in this Act called "the Act of 1860") the Spalding Waterworks Company (in this Act called "the Spalding Company") were incorporated and authorised to construct works and supply water within the town and parish of Spalding in the said county of Lincoln and under the provisions of the Act of 1860 and the Spalding Waterworks Act of 1869 (in this Act called "the Act of 1869" and which Acts are herein-after referred to as "the Spalding Acts") the Spalding Company are now supplying water within the town and part of the parish of Spalding :

And whereas the said town and parish is included within the limits of supply of the Company under the Act of 1888 but the Company are by section 34 of that Act precluded from supplying water therein without the consent of the Spalding Company :

And whereas the Company on the one hand and the Spalding Company on the other hand have agreed for the transfer to the Company of the undertaking rights powers and privileges of the Spalding Company on the terms and conditions herein-after contained and it is expedient that provisions as herein-after contained

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A.D. 1890. — should be made for effecting that object and that the Company should be empowered to raise further money for that purpose as herein-after provided :

And whereas pending the negotiations for the transfer of the undertaking of the Spalding Company to the Company no steps have been taken in constructing the works authorised by the Act of 1888 :

And whereas the period limited by that Act for the compulsory purchase of lands will expire on the fifth day of July one thousand eight hundred and ninety-one and the period limited for the completion of the works thereby authorised will expire on the fifth day of July one thousand eight hundred and ninety-three and it is expedient that the said respective periods should be extended as herein-after provided :

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

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 South Lincolnshire Fen Water Act 1890.

Provisions of general Acts incorporated.

2. The following Acts and parts of Acts namely :—

The provisions of the Companies Clauses Consolidation Act 1845—

With respect to the distribution of the capital of the Company into shares :

With respect to the transfer or transmission of shares :

With respect to the payment of subscriptions and the means of enforcing the payment of calls :

With respect to the forfeiture of shares for nonpayment of calls :

With respect to the remedies of creditors of the Company against the shareholders :

With respect to the borrowing of money by the Company on mortgage or bond :

With respect to the conversion of the borrowed money into capital :

With respect to the consolidation of the shares into stock :

With respect to the making of dividends :

With respect to the giving of notices : and

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With respect to the provision to be made for affording access to the special Act by all parties interested: A.D. 1890.

Parts I. II. and III. of the Companies Clauses Act 1863 (relating respectively to cancellation and surrender of shares to additional capital and to debenture stock) as amended by the Companies Clauses Act 1869: and

Part II. (relating to extension of time) of the Railways Clauses Act 1863:

are so far as the same are applicable to and are not expressly varied by or inconsistent with the provisions of this Act incorporated with and form part of this Act and in construing the provisions of the last-named Act the expression "the railway" shall for the purposes of this Act be deemed to mean the well pumping station and aqueduct authorised by the Act of 1888.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Act have the same respective meanings unless there be something in the subject or context repugnant to such construction. And in the Acts wholly or partially incorporated with this Act for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute. Interpre-  
tation.

4. The Spalding Company shall sell and the Company shall purchase the undertaking property rights powers and privileges of the Spalding Company freed and discharged from all debts and pecuniary liabilities of the Spalding Company (other than the mortgages of that company herein-after mentioned) and from all contracts or engagements of that company (other than ordinary trade contracts) entered into or made subsequently to the thirtieth day of November one thousand eight hundred and eighty-nine for the considerations and upon the terms and conditions in this Act mentioned and for the purposes of such sale and of this Act the undertaking so transferred (herein-after called "the Spalding undertaking") shall be deemed to include all reservoirs works mains pipes plant fixed and movable machinery apparatus implements conveniences messuages buildings lands easements chattels effects (except stock of coals lime tools and other loose materials) and all authorities powers rights and privileges of the Spalding Company on the date of the actual completion of the transfer and all other the estate real or personal of or on that date belonging to the Undertaking  
of Spalding  
Company  
to be trans-  
ferred.

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A.D. 1890. — Spalding Company or to which the Spalding Company is entitled except—

- (A) All debts (other than water rents and rates) due to the Spalding Company on the date of the actual completion of the transfer :
- (B) All water rents and rates and all other income and earnings of the Spalding Company accrued or accruing up to the date of the actual completion of the transfer except the proportionate part of any rents and rates payable in advance for the then current quarter and due in respect of the period from the date of the actual completion of the transfer to the end of the then current quarter which shall be paid over by the Spalding Company to the Company.

Consideration for transfer.

5. The consideration for such transfer shall be—

- (A) The sum of five hundred pounds already deposited by the Company :
- (B) The deposit with the Spalding Company of five hundred pounds within one month from the passing of this Act :
- (C) The payment to the Spalding Company in cash of the further sum of twenty thousand one hundred and ten pounds fifteen shillings and elevenpence on the sixth day of January one thousand eight hundred and ninety-one : and
- (D) The discharge and payment off or the taking over by the Company by agreement with the mortgagees of the mortgage debt of the Spalding Company amounting to three thousand four hundred pounds and all interest which may have accrued due thereon between the said sixth day of January one thousand eight hundred and ninety-one and the date of the actual completion of the transfer Provided always that in case the said mortgage debt shall be taken over by the Company they shall at their own cost procure a release by the mortgagees of the Spalding Company therefrom.

Spalding Company to show good title.

6. The Spalding Company shall before the first day of December one thousand eight hundred and ninety deduce a title in fee simple to all and every part of the undertaking transferred free of incumbrances other than the mortgage debt of three thousand four hundred pounds herein-before mentioned and in the event of the failure of the Spalding Company to deduce such a title to the said undertaking or any part thereof the Spalding Company shall make to the Company such allowance from the consideration money to be paid as aforesaid as in default of agreement may be determined by arbitration.

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7. The transfer of the Spalding undertaking shall be completed on the sixth day of January one thousand eight hundred and ninety-one and shall be carried into effect by a deed duly stamped and truly stating the consideration which deed may be in the form set forth in the First Schedule to this Act or to the like effect with such variations and additions as circumstances require and on the execution of such deed and the payment to the directors of the Spalding Company of the consideration money the Spalding undertaking shall by virtue of this Act be as from the date of completion transferred to and vested in the Company and may be held used and enjoyed by them and until the purchase shall be so carried into effect the Spalding Company shall retain possession of their undertaking and keep the same in good repair and condition and on the completion of the transfer in manner aforesaid shall give possession of the undertaking to the Company and shall at the same time deliver to them all conveyances deeds and muniments of title contracts agreements instruments and documents relating to lands comprised in that undertaking and thenceforth the Company in their own name and for their own benefit shall have and hold the said undertaking :

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Transfer  
and vesting  
of Spalding  
undertaking.

Provided that within three months from the date of completion of the transfer the Company shall produce the same to the Commissioners of Inland Revenue duly stamped and in default of such production the ad valorem stamp duty with interest thereon at the rate of five pounds per centum per annum from the date of the deed to the date of payment shall be recoverable from the Company with full costs of action and all costs and charges attending the same.

8. With respect to the transfer of the Spalding undertaking the following provisions shall have effect (that is to say) :—

Provisions  
incidental  
to transfer.

(1) The Spalding Company shall carry on and manage their undertaking until the completion of the transfer according to their ordinary course of business and receive all water rates accrued or accruing up to the actual date of such completion and make all payments and declare and pay dividends as hitherto and generally act in the management of their business for the benefit of the undertaking as if the same were being carried on for the benefit of their shareholders but the Spalding Company shall not enter into any contracts or engagements other than such as may be necessary to be made in the ordinary carrying on of their business :

(2) The documents of title herein-before mentioned and all contracts agreements and instruments which will affect the

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Company or the Spalding undertaking in the hands of the Company shall on the date of completion of the transfer be delivered to the Company but all other books plans documents and papers of the Spalding Company the registers of stockholders and shareholders and mortgages and registers of transfers shall be retained by the Spalding Company and shall at all times be open to the inspection of any officer of the Company or person authorised by the Company to inspect the same on payment of a fee not exceeding five shillings for each inspection.

Company to  
take coals &c.

9. The Company shall take the stock of coals lime tools and other loose materials of a like nature belonging to the Spalding Company at the date of the completion of the transfer at such price as failing agreement may be settled by arbitration as hereinafter provided and shall pay for the same within fourteen days of the ascertainment of the price to be paid therefor.

Application  
of Spalding  
Company's  
Acts to the  
Company.

10. From and after the completion of the transfer all the powers rights privileges and authorities of the Spalding Company under the Spalding Acts and the Acts incorporated therewith except the provisions thereof relating to the share stock or loan capital of the Spalding Company and to directors and meetings of the Spalding Company and the provisions herein-after repealed shall subject to and except so far as inconsistent with the provisions of the Act of 1888 and this Act be by virtue of this Act transferred to and vested in the Company and may be enjoyed and exercised by the Company and except as aforesaid those Acts shall be read and have effect as if the Company had been therein named instead of the Spalding Company.

Contracts  
of Spalding  
Company to  
be binding on  
Company.

11. All conveyances deeds contracts and agreements and other instruments affecting the Spalding Company and entered into or made prior to the thirtieth day of November one thousand eight hundred and eighty-nine and all ordinary trade contracts affecting that company entered into or made subsequently to that date and in force at the date of the completion of the transfer 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 Spalding Company the Company had been a party thereto.

Receipt for  
sums in  
gross.

12. The receipt in writing of three of the directors of the Spalding Company for any sum to be paid to the Spalding Company or the directors of the Spalding Company by the Company shall be conclusive evidence of the payment of the sum in such receipt

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acknowledged to be received and shall effectually discharge the Company from all liability in respect of the payment of the sum in such receipt acknowledged to have been received and from being answerable or accountable for any loss misapplication or non-application thereof respectively. A.D. 1890.

**13.** (1) Within one month after the date of the completion of the transfer the Spalding Company shall publish notice of their intention to wind up their affairs and distribute their assets and such notice shall state that all persons having any charge lien or incumbrance (other than the mortgages to be discharged or taken to by the Company as aforesaid) affecting the Spalding undertaking or having any claim against that company shall send in particulars thereof in writing addressed to the secretary of that company at their office at Spalding in order that the same may be satisfied or discharged and the Spalding Company shall also send a copy of the notice so published to every creditor whose address shall be known to them And such notice shall be advertised once in the London Gazette and twice in successive weeks in a newspaper published in Lincolnshire and all claims and demands whatsoever of which the Spalding Company shall not have received notice in writing within six months from the date of the last insertion of such notice shall be barred both against the Spalding Company and the Spalding undertaking in the hands of the Company and the Company and the rights of all persons therein or thereunder shall absolutely cease and determine. As to winding up of Spalding Company.

(2) The Spalding Company shall apply the consideration money paid to them by the Company as aforesaid and all other assets not transferred to the Company as follows:—

(A) In payment of interest on their mortgages up to the date of the discharge or taking over thereof by the Company in accordance with the provisions of this Act:

(B) In payment and satisfaction of all other their debts and liabilities and in satisfaction of all claims and demands whatsoever against them except the aforesaid mortgage debt of three thousand four hundred pounds:

(C) In payment of the costs of and attending the winding up of their company:

And the balance shall be divided and distributed among the proprietors of shares or stock in the capital of the Spalding Company in proportion to their respective interests and in order to such distribution of the balance the directors of the Spalding Company shall as soon as may be after the discharge in manner provided by this Act of the aforesaid debts and liabilities give notice that

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(3) Where the directors of the Spalding Company are for three months after the time so named for such distribution to be made unable to ascertain the person to whom any part of the said balance is payable or to effect such payment or where any part thereof is payable to a person who or whose guardian or committee cannot give an effectual receipt for the same the directors may pay the same into the Chancery Division of the High Court under any Act for the time being in force for the relief of trustees.

(4) When the consideration money has been applied as aforesaid all shares and stock in the capital of the Spalding Company shall immediately thereupon be by this Act cancelled and all liabilities and rights with respect to those shares and stock shall thenceforth be absolutely extinguished and the Spalding Company shall be by virtue of this Act dissolved.

(5) For the purpose of winding up the affairs of the Spalding Company the directors of the Spalding Company in office at the date of the completion of the transfer and the survivors of them shall continue in office without re-election and such directors and the Spalding Company shall have and may exercise all powers and do all acts necessary or proper for the declaration of dividends amongst the shareholders of the Company and the payment of such dividends and generally for the distribution of the assets and the winding up of the affairs of the Spalding Company in accordance with the foregoing provisions of this Act.

If the number of directors be reduced by death or resignation below three before the completion of such winding up the continuing directors or director shall from time to time choose a member or members of the Spalding Company to be a director or directors of the Spalding Company so that the number of directors shall as soon as may be be raised again to three.

14. If any question shall arise between the Spalding Company and the Company touching any of the foregoing provisions of this Act or as to anything to be done or not to be done or any money to be paid or not to be paid thereunder such question or difference shall be determined by arbitration under and according to the provisions of the Arbitration Act 1889.

Any matters  
in difference  
between  
Spalding  
Company and  
Company to  
be settled by  
arbitration.



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**15.** In addition to the directors from time to time elected under the provisions of the Companies Clauses Consolidation Act 1845 and the Act of 1888 the directors for the time being of the Company shall if there be at the time of their first meeting in any year a shareholder or shareholders in the capital of the Company resident in the town of Spalding and willing to act as a director of the Company appoint at such meeting such shareholder or one of such shareholders to be a director of the Company and every director so appointed shall (if he continue resident) continue in office until the first meeting of the directors of the Company in the year following that in which he was so appointed and shall then retire but shall if he continue resident be eligible for reappointment.

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As to  
resident  
director.

**16.** The water to be supplied by the Company within the parish of Spalding shall be constantly laid on under pressure in accordance with the provisions of section 35 of the Act of 1888.

As to  
pressure in  
Spalding.

**17.** Section 34 of the Act of 1888 and sections 26 and 27 of the Act of 1860 are hereby as from the date of the actual completion of the transfer repealed and notwithstanding anything in the Act of 1888 or the Act of 1860 the Company shall not demand or take for the supply of water for domestic purposes within the town and parish of Spalding any greater rates than the rates following (that is to say):—

Rates in  
Spalding.

Where the rateable value of the premises supplied does not exceed six pounds six shillings per annum:

Where such value exceeds six pounds six per centum per annum on such value:

Neither shall the charge for water supplied for other than domestic purposes within the said parish exceed the rates specified in the Second Schedule to this Act.

**18.** From the date of the completion of the transfer to the Company the drinking fountain erected by the Spalding Company in Hall Place in Spalding shall absolutely vest in the Company who shall ever thereafter keep the same in a substantial state of repair and provided with a constant supply of water and if after one month's notice in writing given by the clerk to the urban sanitary authority for the time being of the town of Spalding to the Company the Company fail to comply with the aforesaid provisions of this section they shall be liable to a penalty not exceeding ten pounds to be recovered in a court of summary jurisdiction by such authority in every case of such failure.

Drinking  
fountain  
to vest in  
Company.

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Power to  
apply  
existing  
funds.

Power to  
raise addi-  
tional  
capital.

**19.** The Company may from time to time apply towards any of the purposes of this Act to which capital is properly applicable any moneys which they may raise under the Act of 1888.

**20.** The Company (in addition to any capital which they are by the Act of 1888 authorised to raise) may from time to time for the purposes of this Act raise by the creation and issue of preference shares or stock any sum or sums not exceeding twenty thousand pounds Provided that the dividend on any such preference shares or stock shall not exceed the rate of five pounds per centum per annum And that no such preference shares shall be issued until shares for not less than five thousand pounds of ordinary capital are issued and accepted and fully paid up and the amount of preference capital to be issued by the Company under the powers of this Act shall at no time exceed the amount of ordinary capital of the Company for the time being issued and accepted and fully paid up.

Shares not  
to be issued  
until one  
fifth paid.

**21.** 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 a sum not being less than one fifth of the amount of such share be paid in respect thereof.

As to votes  
&c. in respect  
of shares  
or stock.

**22.** The Company may attach to any such shares or stock such conditions as to voting qualifications or otherwise as they think fit to declare before issuing the same but except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of such shares or stock.

Power to  
borrow.

**23.** Sections 11 to 15 of the Act of 1888 are hereby repealed and the Company may from time to time borrow on mortgage of the undertaking any sum not exceeding in the whole twenty thousand pounds but no such borrowing powers shall be exercised until share capital for not less than ten thousand pounds is issued accepted and fully paid up.

For appoint-  
ment of a  
receiver.

**24.** 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 one thousand pounds in the whole.

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**25.** The Company may create and issue debenture stock subject to the provisions of section 14 of the Act of 1888.

—  
 Debenture stock.

**26.** All principal moneys and interest secured by mortgage or debenture stock under 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 to be incurred or engagements entered into or to be entered into by them. Provided always that this priority shall not affect any claim against the Company or their property or the tolls and rates of their undertaking in respect of the rentcharge payable under the agreement dated the sixteenth day of December one thousand eight hundred and eighty-seven a copy of which is set forth in the schedule annexed to the Act of 1888 and which is confirmed by that Act or 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 in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock.

Priority of mortgages.

**27.** The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage or any part thereof by the creation of shares instead of borrowing or to convert into capital the amount borrowed under the provisions of this Act unless in either case all dividends upon the shares so created whether ordinary or preferential are limited to a rate not exceeding five pounds per centum per annum.

As to conversion of borrowed money into capital.

**28.** All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

Application of moneys.

**29.** The powers of the Company under the Act of 1888 for the compulsory purchase or user of lands for the purposes of the well and pumping station and aqueduct authorised by that Act are hereby extended and may be exercised at any time within but shall not be exercised after the expiration of one year from the fifth day of July one thousand eight hundred and ninety-two.

Extending period for compulsory purchase of lands.

**30.** The provisions of section 28 of the Act of 1888 shall extend and apply to the Company in the exercise of the powers of that Act as amended by this Act.

Restriction on taking houses of labouring class.

**31.** The period limited by the Act of 1888 for the completion of the well and pumping station and aqueduct authorised by that Act is hereby extended to three years from the fifth day of July one

Extending period for completion of works

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—  
authorised  
by Act of  
1888.

thousand eight hundred and ninety-four and if the same be not completed at the expiration of that extended period the powers granted to the Company for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed. Provided that section 4 of the Act of 1888 shall be read and have effect as if seven years had been named therein instead of five years.

Amendment  
of agreement  
scheduled  
to Act of  
1888.

**32.** Whereas by an agreement dated the sixteenth day of December one thousand eight hundred and eighty-seven a copy of which is set forth in the schedule annexed to the Act of 1888 and which is confirmed by that Act and is herein called "the scheduled agreement" certain land at the Tongue End Farm more particularly described in that agreement was agreed to be sold to the Company and it has been agreed between the parties thereto of the first and second parts and the Company that such agreement should be amended as follows (that is to say) :—

(1) The time mentioned in paragraph 7 of the scheduled agreement as the time within which at latest the purchase of the lands and premises at Tongue End Farm more particularly described in that agreement should be completed shall be extended for two years and the aforesaid agreement shall be construed as if the period of four years after the passing of the Act of 1888 had been mentioned in paragraph 7 of that agreement instead of two years after the passing of the Act of 1888 as therein mentioned. And notwithstanding the non-completion of the purchase within the period so limited by the scheduled agreement no interest shall be payable by the Company as provided in paragraph 7 of that agreement in respect of the period between the fifth day of July one thousand eight hundred and ninety and the fifth day of July one thousand eight hundred and ninety-two :

(2) The time mentioned in paragraph 21 of the scheduled agreement as the time within which at latest the works authorised to be constructed upon the piece of land thereby agreed to be sold should be completed shall be extended for three years and the scheduled agreement shall be construed as if the period of six years from the date of the passing of the Act of 1888 had been mentioned in paragraph 21. of that agreement instead of three years from the date of the passing of the Act of 1888 and the works shall not be deemed to be abandoned by the Company if completed within such extended period :

Be it enacted that the provisions of the scheduled agreement and of the section 32 of the Act of 1888 confirming the same shall be

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construed as if the aforesaid extended periods had been respectively mentioned in paragraphs 7 and 21 of the said agreement in lieu of the periods therein respectively mentioned. A.D. 1890.

**33.** All costs charges and expenses of and preliminary and incident to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto (including all costs reasonably incurred by the Spalding Company of and incident thereto) and all legal and other costs of and relating to the transfer of the undertaking of that company to the Company and the negotiation for and the completion thereof and the deduction of title to the property of the Spalding Company and the discharge or taking over of the mortgage debt of that company shall be paid by the Company. Costs.

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The SCHEDULES referred to in the foregoing Act.

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THE FIRST SCHEDULE.

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FORM OF DEED OF TRANSFER OF WATER UNDERTAKING.

In pursuance of and subject to the provisions of the South Lincolnshire Fen Water Act 1890 the Spalding Waterworks Company do hereby in consideration of [*as the case may be*] grant convey and assign to the South Lincolnshire Fen Water Company the water undertaking as defined by the said Act To hold to them the South Lincolnshire Water Company their successors and assigns and the said South Lincolnshire Fen Water Company do accept the same accordingly.

In witness &c.

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THE SECOND SCHEDULE.

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SCALE OF CHARGES FOR WATER SUPPLIED BY METER IN THE  
PARISH OF SPALDING FOR OTHER THAN DOMESTIC PURPOSES.

Not exceeding fifteen thousand gallons per quarter two shillings and three-pence per thousand :

Exceeding fifteen thousand gallons and not exceeding twenty-five thousand gallons two shillings per thousand :

Exceeding twenty-five thousand gallons and not exceeding fifty thousand gallons one shilling and sixpence per thousand :

Exceeding fifty thousand gallons and not exceeding seventy-five thousand gallons one shilling per thousand :

Exceeding seventy-five thousand gallons and not exceeding one hundred thousand gallons ninepence per thousand :

One hundred thousand and above sevenpence halfpenny per thousand.

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Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY FIGOTT, Esq., the Queen's Printer of Acts of Parliament.

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