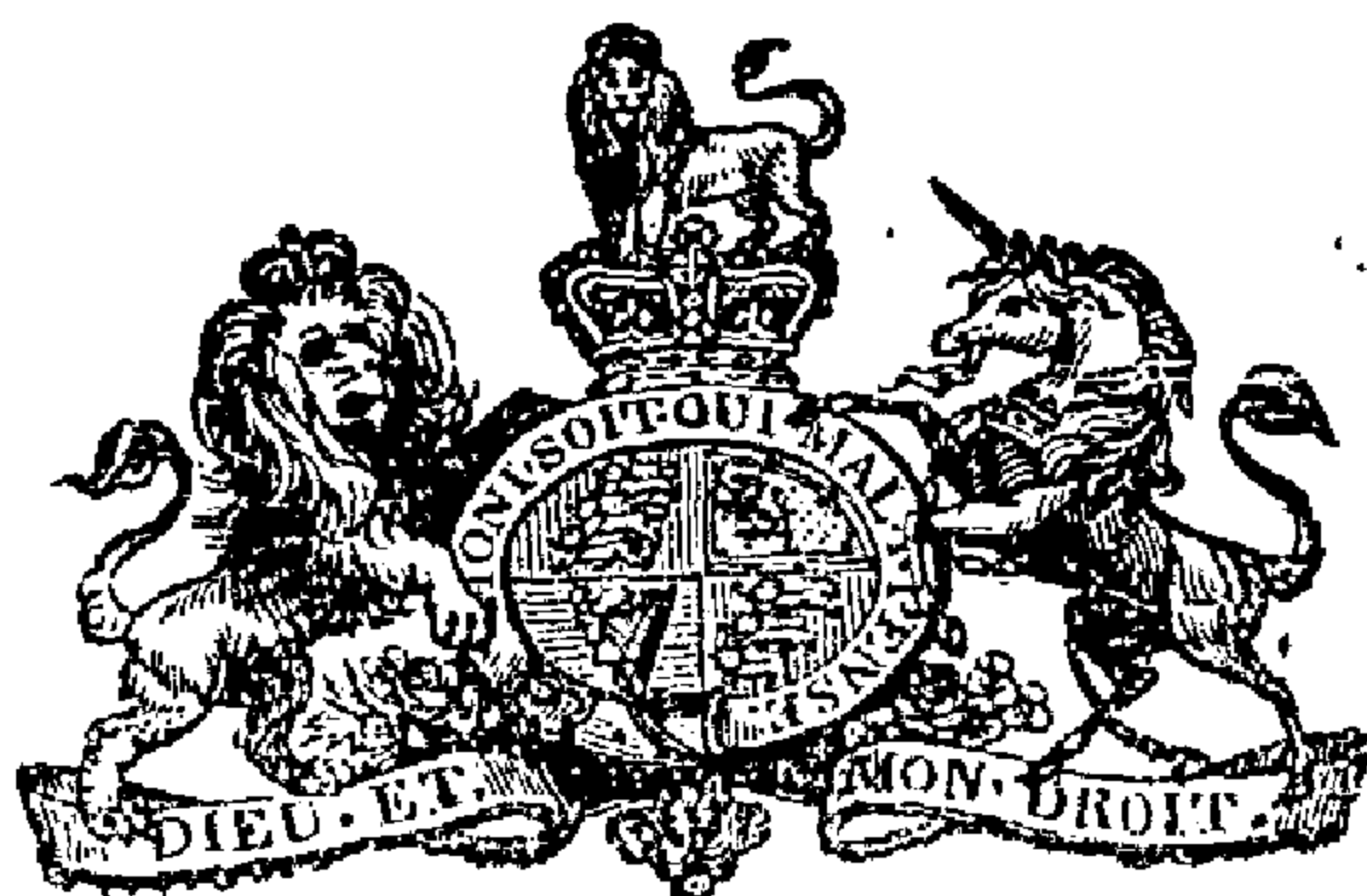


[58 VICT.]

Edinburgh and District Waterworks [Ch. xxvii.]
(*Additional Supply*) Act, 1895.



CHAPTER xxvii.

An Act to provide an additional supply of Water to the City of Edinburgh Town and Port of Leith and Town of Portobello and districts and places adjacent to confer further powers on the Edinburgh and District Water Trustees and for other purposes. [30th May 1895.]

WHEREAS by the Edinburgh and District Waterworks Act 1869 (in this Act referred to as "the Act of 1869") the Edinburgh and District Water Trustees (in this Act called "the Trustees") were incorporated for the purpose of supplying water to the city of Edinburgh town and port of Leith and town of Portobello and districts and places adjacent and the powers of the Trustees were therein defined and regulated :

And whereas by the Edinburgh and District Waterworks (Additional Supply) Act 1874 (in this Act referred to as "the Act of 1874") the Trustees were authorised to construct additional waterworks and to borrow additional sums of money and the limits within which the Trustees were authorised to supply water were extended and certain further powers were conferred on the Trustees :

And whereas by the following Acts namely the Edinburgh and District Waterworks Act 1876 (in this Act referred to as "the Act of 1876") the Edinburgh and District Waterworks Act 1877 (in this Act referred to as "the Act of 1877") the Edinburgh and District Waterworks Act 1880 (in this Act referred to as "the Act of 1880") and the Edinburgh and District Waterworks Act 1889 (in this Act referred to as "the Act of 1889") further powers were severally conferred on the Trustees in relation to their undertaking and which several Acts and the Act of 1869 and the Act of 1874 herein-before mentioned are in this Act referred to as "the recited Acts" :

A.D. 1895.

And whereas the population within the Trustees limits of supply is now estimated at about four hundred thousand and is rapidly increasing :

And whereas the Trustees are advised that their existing sources of supply will at a no distant date be inadequate and insufficient to meet the wants and convenience of the rapidly increasing population trade manufactures and shipping within the limits of supply and it would be for the public advantage that the Trustees should be authorised to introduce an additional supply of water from the Talla Water in the county of Peebles and the tributaries thereof and for that purpose to acquire the lands and construct and maintain the several waterworks in this Act mentioned :

And whereas in order to facilitate the construction of such waterworks it is expedient that the Trustees should be authorised to construct the temporary railways in this Act mentioned :

And whereas it is expedient that the Trustees should be empowered to acquire additional land for the purpose of the said works and of their undertaking :

And whereas by the Act of 1869 the Trustees were relieved from the obligation to have the water constantly laid on under pressure and from penalties in respect of such supply for a period of five years as in that Act provided :

And whereas under the Act of 1874 the said period of exemption was extended for five years from and after the passing of that Act or until the works authorised by that Act should be completed and the water from the same introduced :

And whereas by the Act of 1889 it was provided that the Trustees should not until the expiration of a period of five years from the passing of that Act be bound to have the water constantly laid on under pressure at a greater height than fifty feet above the level of such streets as are more than two hundred feet above ordnance datum level :

And whereas the said last-mentioned period of five years has expired :

And whereas it has for some time been in contemplation to provide an additional water supply which would enable the Trustees to fulfil the obligation to have water constantly laid on under pressure :

And whereas it is expedient that the Trustees should obtain a further extension of the period of exemption from the obligation to have water constantly laid on under pressure at a greater height than fifty feet above the level of such streets as are more than two

hundred feet above ordnance datum level and from penalties in respect thereof: A.D. 1895.

And whereas it is expedient that the limits of compulsory supply should be extended and defined:

And whereas Captain Robert Gordon Gordon Gilmour and certain other persons by the name of the Liberton Waterworks Company supply water within certain parts of the Trustees limits of supply and it is expedient that the Trustees should be authorised to acquire the waterworks and water undertaking of that company and that the said company should be authorised to sell and transfer to the Trustees the said waterworks and water undertaking accordingly:

And whereas it is expedient that the Trustees should be authorised to levy rates and to raise further money for the purposes of the works authorised by this Act and for the purchase of lands and for the general purposes of their undertaking:

And whereas it is expedient that the other powers in this Act mentioned should be conferred on the Trustees:

And whereas plans and sections showing the lines situations and levels of the several works authorised by this Act and also a book of reference thereto containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands and other property required or which may be taken for the several purposes or under the powers of this Act were duly deposited with the principal sheriff clerks of the county of Midlothian and Peebles respectively and with the sheriff clerk of the county of the city of Edinburgh and are in this Act referred to as the deposited plans sections and book of reference:

And whereas the purposes 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):—

1. This Act may be cited for all purposes as the *Edinburgh and District Waterworks (Additional Supply) Act 1895.* Short title.

2. In this Act the several words and expressions to which meanings are assigned in the recited Acts and in any Acts wholly or partially incorporated with those Acts shall have the meanings attached to them in the recited Acts unless there be something in Interpreta-
tion.

A.D. 1895. the subject or context repugnant to such construction and subject to the variations and amendments following (that is to say):—

The expression “the Trustees” means the Trustees for the time being constituted and incorporated by the Act of 1869 as amended by the Act of 1874;

The expression “the city of Edinburgh” means and includes the city and royal burgh of Edinburgh according to the municipal and police boundaries thereof at the passing of this Act and which boundaries are respectively defined by the Edinburgh Municipal and Police Extension Act 1882 the Edinburgh Extension and Sewerage Act 1885 and the Edinburgh Municipal and Police Extension Act 1890;

The expression “the undertaking” means and includes all the waterworks of the Trustees and the waterworks acquired under this Act and the waterworks and railways authorised by this Act and all lands property and buildings and all streams springs wells reservoirs cisterns tanks aqueducts sluices mains pipes culverts and all machinery material plant or things for supplying water or used in or connected with the supply of water under the authority of the recited Acts and this Act and all the rights powers authorities and privileges vested in the Trustees;

The expression “drainage area” means lands off and from which water flows directly or indirectly into the Trustees reservoirs and works respectively;

The expression “limits of compulsory supply” means the limits for the compulsory supply of water by the Trustees as extended and defined in this Act;

The expression “the limits of the Act” means the limits referred to in the Act of 1869 and in the Act of 1874;

The expression “the sheriff” means the sheriff of the Lothians and Peebles.

Recited Acts and this Act to be construed as one Act.

3. This Act and the recited Acts as each of such recited Acts is amended and varied by any other of such recited Acts and by this Act shall be read and construed together as one Act and may be cited as the Edinburgh and District Waterworks Acts 1869 to 1895.

Incorporation of Acts.

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

The Lands Clauses Acts;

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

A.D. 1895.

The Railways Clauses Consolidation (Scotland) Act 1845 and Part I of the Railways Clauses Act 1863 and in construing the said two last-mentioned Acts and clauses for the purpose of this Act the word "company" shall mean the Trustees and the word "railway" shall mean and include the railways authorised by this Act;

The Commissioners Clauses Act 1847 with the exceptions specified in the recited Acts.

5. The Trustees shall not take any tolls rates or charges in respect of the railways authorised by this Act or the use thereof.

Tolls &c.
not to be
taken.

6. Subject to the provisions of this Act the Trustees may make construct lay down and maintain in the lines and situations and according to the levels shown on the deposited plans and sections the several works and railways shown on the deposited plans and herein-after described or some of them or some part or parts thereof together with all proper embankments reservoirs bridges roads approaches ways wells dams tanks basins gauges filter beds stand pipes discharge pipes washouts culverts adits shafts tunnels aqueducts cuts channels catch waters bye washes conduits sewers drains mains pipes junctions valves telegraphs telephone and other means of electric communication engines apparatus houses buildings stations sidings gates approaches communications and conveniences connected with or auxiliary to the said works or any of them or necessary for conducting inspecting maintaining repairing cleansing managing and using the same and may enter on take and use such of the lands described in the deposited plans and book of reference as they require for those purposes The works and railways herein-before referred to are the following (that is to say):--

Works.

- (1) Talla Reservoir.—A reservoir (herein called the "Talla Reservoir") wholly situate in the parish of Tweedsmuir and county of Peebles commencing on the said Talla Water near the north-west corner of Talla Linnfoots Farm steading and terminating at the embankment next herein-after described;
- (2) An embankment wholly situate in the parish of Tweedsmuir and county of Peebles to be placed across the said Talla Water at the termination of the said Talla Reservoir;

A.D. 1895.

- (3) A diversion wholly situate in the parish of Tweedsmuir and county of Peebles of the public road leading from Tweedsmuir past Talla Linnfoots Farm steading to Saint Mary's Loch ;
- (4) Fairmilehead Reservoir.—A reservoir (herein called "Fairmilehead Service Reservoir") with filter beds and pure water tank wholly situate in the parish of Liberton and county of Midlothian to be constructed in the fields numbered 507 508 509 516 518 519 and 528 on the ordnance survey map (scale twenty-five inches to the mile) of the county of Midlothian or in some one or more of them ;
- (5) Aqueduct No. 1.—An aqueduct conduit or line of pipes (herein called "Aqueduct No. 1") commencing at a point in the parish of Tweedsmuir and county of Peebles in the said Talla Reservoir at or near the embankment of said reservoir as before described and terminating in the said Fairmilehead Service Reservoir in the parish of Liberton and county of Midlothian which aqueduct conduit or line of pipes will pass from in through or into the parishes of Tweedsmuir Drumelzier the united parishes of Broughton Glenholm and Kilbucho the parishes of Skirling Kirkurd Newlands and Linton or some one or more of them and county of Peebles and the parishes of Penicuik Glencorse Lasswade Liberton and Colinton or some one or more of them and county of Midlothian ;
- (6) Aqueduct No. 2.—An aqueduct conduit or line of pipes (herein called "Aqueduct No. 2") wholly situate in the parish of Liberton and county of Midlothian commencing by a junction with Aqueduct No. 1 at Fairmilehead cross roads in the parish of Liberton and county of Midlothian and terminating by a junction with the Trustees main Moorfoot pipe at the crossing of the public roads at Kaims also in the parish of Liberton and county of Midlothian ;
- (7) Aqueduct No. 3.—An aqueduct conduit or line of pipes (herein called "Aqueduct No. 3") commencing by a junction with Aqueduct No. 1 at Fairmilehead cross roads in the parish of Liberton and county of Midlothian and terminating at a point in Comiston Road in the parish of St. Cuthberts (now forming part of the city parish of Edinburgh by an Order made by the Secretary for Scotland under the provisions of the Local Government (Scotland) Acts) where the said road is crossed by the parliamentary and municipal boundary of the city of Edinburgh in the said last-mentioned parish and county of Midlothian which aqueduct conduit or line of pipes

will pass from in through or into the parishes of Liberton Colinton and St. Cuthberts (now city parish of Edinburgh) or some one or more of them and county of Midlothian ;

(8) A railway (herein called "Railway No. 1") eight miles two furlongs and 8·5 chains in length commencing by a junction with the Caledonian Railway (Symington Biggar and Peebles Branch) at a point six hundred and forty yards or thereby measured in a south-easterly direction along the said branch railway from the centre of the bridge carrying the said branch railway over the Biggar Water in the parish of Stobo and county of Peebles and terminating at or near the embankment of the said Talla Reservoir in the parish of Tweedsmuir and county of Peebles and which Railway No. 1 will pass from in through or into the parish of Stobo the united parishes of Broughton Glenholm and Kilbucho and the parishes of Drumelzier and Tweedsmuir or some one or more of them and county of Peebles ;

(9) A railway (herein called "Railway No. 2") two miles five furlongs 8·3 chains in length commencing by a junction with Railway No. 1 at a point in a straight line between Rachan House and Whiterig Farm and terminating at a point north of the north fence of the said branch railway of the Caledonian Railway Company in the boundary line between the united parishes of Broughton Glenholm and Kilbucho and the parish of Skirling and county of Peebles and which Railway No. 2 will pass from in through or into the united parishes of Broughton Glenholm and Kilbucho and the parishes of Stobo and Skirling and county of Peebles :

Provided that [any telegraphs telephones and other means of electric communication constructed by the Trustees shall not be used for the purpose of transmitting telegrams or telephonic messages in contravention of the exclusive privileges conferred upon the Postmaster-General by the Telegraph Act 1869.

7. The Trustees may in constructing the works by this Act authorised deviate laterally from the lines thereof as shown on the deposited plans relating thereto to the extent of the limits of lateral deviation shown thereon and when the line of any work is shown on those plans as passing along any road and no limits of lateral deviation are marked on the deposited plans the Trustees may in making such work deviate laterally to any extent within the boundaries of such road and the Trustees may also deviate from the

Power to deviate laterally and vertically.

A.D. 1895. levels of all or any of the works authorised by this Act as shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards Provided always that in the exercise of such powers of vertical deviation the Trustees shall not lay above ground any pipe which is shown on the deposited plans to be underground Provided also that if the Trustees shall in the case of the embankment exercise the powers of vertical deviation hereby granted they shall construct the embankment of such additional thickness at the base as shall be equal to five feet for every additional foot of additional height and shall make a corresponding addition to the strength of any retaining wall.

For protection against accidents from reservoirs &c.
 Inclination of road,

8. The provisions in the recited Acts for protection against accidents from reservoirs or embankments shall extend and be applied to the reservoirs and embankments by this Act authorised.

9. In altering for the purposes of this Act the road next herein-after mentioned the Trustees may make the same of any inclination not steeper than the inclination herein-after mentioned in connexion therewith (that is to say) :—

Railway.	No. on deposited Plan.	Parish.	Description of Road.	Intended Inclination.
Railway No. 1	137	United Parishes of Broughton Glenholm and Kilbucko.	Public	1 in 16

Railways to be used exclusively for construction of works.

10. The railways which may be constructed under this Act shall be used exclusively for the purposes of the waterworks authorised by this Act for the conveyance of minerals stone merchandise materials and plant and for the conveyance of officers servants employés and workmen of the Trustees and of their contractors: Provided always that after the completion of the works in the construction of which the said railways shall be used the rails and sleepers shall be taken up and the lands so far as not required for any of the other works authorised by this Act shall subject to the provisions of this Act be dealt with as superfluous lands Provided further that unless otherwise agreed between the Trustees and the road authority or any person interested the Trustees shall at their own expense remove any bridges erected by them in the construction of the said railways and restore any portion of road diverted

for the purposes of such railways to its original position and shall maintain the restored portion of any such road for twelve months thereafter.

A.D. 1895.

11. The agreement as set forth in the Second Schedule to this Act made between the Trustees and the Caledonian Railway Company is hereby confirmed and made binding on the Trustees and the Company respectively.

Agreement
between
Trustees and
Caledonian
Railway
Company
confirmed.

12. For the purposes and during the execution of the several works which the Trustees are by this Act authorised to make and in maintaining the same and subject to the provisions of this Act the Trustees may from time to time in any of the lands shown on the deposited plans and specified in the deposited book of reference break up or cross over or under temporarily alter stop up or divert any streets highways roads lanes paths bridges railways canals passages sewers drains streams watercourses gas pipes and water pipes and electric or telephonic apparatus which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such street highway or railway or the flow of water gas sewage or electricity in any such sewer drain stream watercourse or pipe and making full compensation to all persons injuriously affected by anything done under the provisions of this section. Provided that nothing in this section shall extend to or authorise any interference with electric apparatus or other property of Her Majesty's Postmaster-General. Provided also that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1890 to which the provisions of section 15 of the Electric Lighting Act 1882 apply.

Power to
alter roads
&c. tempo-
rarily.

13. Where in the construction of the railways by this Act authorised any diverted portion of road authorised by the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act is formed in lieu of any existing road such diverted portion shall as respects management and maintenance and in all other respects but subject to the provisions of section 39 of the said Act and to the provisions of this Act be held as part of and be subject to the same provisions as any existing road so diverted. Provided always that no portion of road to be diverted shall be stopped until the substituted portion of road to be constructed in lieu thereof has been completed and certified by the

New portions
of road to be
subject to
same pro-
visions as
existing
roads.

A.D. 1895.

sheriff as in the section of this Act the marginal note of which is "Maintenance of diverted road" is provided and the same is open to the public.

On completion of diverted portion of road site of existing road so far as superseded to vest in Trustees.

14. So soon as the substituted portion of the public road leading from Tweedsmuir past Linnfoots Farm steading to Saint Mary's Loch situate in the parish of Tweedsmuir in the county of Peebles and by this Act authorised to be diverted is formed and ready for traffic and certified by the sheriff as in the next following section provided and is open to the public the Trustees may stop up and extinguish all rights of way over the portion of the said existing road between the points of the commencement and termination of the said diversion thereof and they may appropriate for the purposes of this Act the site of the said road so stopped up and diverted so far as the same is bounded on both sides by lands of the Trustees.

Maintenance of diverted road.

15. Immediately upon the completion of the substituted portion of road referred to in the immediately preceding section the Trustees shall make an application to the sheriff to certify as to the completion of the same and the county road authority of the county of Peebles shall be made parties to such application. The said diverted portion of road when its completion is so certified (of which completion such certificate shall be conclusive evidence) and is open to the public shall become and the same shall thenceforth be part of the said public road and shall subject to the proviso herein-after contained be upheld and maintained by the said county road authority. Provided always that the Trustees shall uphold and maintain or pay to the said county road authority the cost of upholding and maintaining the said diverted portion of said road for a period of twelve months after the date of the said certificate of completion.

For protection of Sir Graham Montgomery.

16. The crossing of Railway No. 1 at the Stanhope Private Road shall as shown on the deposited plans be on the level and the portion of the said private road between the public road and the north end of the bridge across the Tweed shall be made up to the level of the public road and gates shall be put up across the said railway and the Trustees shall make provision that the same shall be kept shut except when trains are passing. Provided always that in the event of the said bridge ever being carried away by a flood or otherwise the Trustees shall put up gates across the road to the ford whenever they are required by the proprietor so to do.

For the protection of the North

17. The following provisions for the protection of the North British Railway Company (hereinafter called "the North British

Company") shall unless otherwise agreed between the Trustees and the North British Company apply and have effect (that is to say):—

The aqueduct conduit or line of pipes (Aqueduct No. 1) by this Act authorised shall be carried under the railway of the North British Company near Macbie Hill Station by means of an arch or culvert to be constructed for such purpose if so required by the engineer of the North British Company in such position within the limits of deviation and at such a depth under the railway and in such manner as shall be determined by such engineer;

The Trustees shall not enter upon or interfere with the railway work or land belonging to the North British Company further or otherwise than may be necessary for constructing maintaining and effecting repairs to any works of the Trustees to be laid under or across such railway work or land and they shall not alter or interfere with the lines or levels of any such railway or work and shall only acquire such an easement or servitude through or in any land or property of the North British Company as may be required for making maintaining repairing and using the works of the Trustees in accordance with the provisions of this Act;

All works of the Trustees for laying down executing or subsequently maintaining repairing or renewing the said aqueduct conduit or line of pipes and any other mains pipes and works of the Trustees which may be laid under across over or which may in any way affect the railway work or land of the North British Company shall be executed and subsequently maintained repaired and renewed under the superintendence and to the satisfaction of the engineer of the North British Company and according to plans and sections and in such manner and of such design and materials as shall be previously approved by such engineer and in all things by and at the expense of the Trustees;

The Trustees shall restore and make good any injury or disturbance caused by them to the railway works or lands of the North British Company in carrying the said aqueduct conduit or line of pipes under the railway;

All the works and operations of the Trustees under this Act shall be constructed executed and done so as not to cause any injury to the railway or any interruption to the passage or conduct of traffic over the railway;

If any such injury or interruption shall arise from or be in any way owing to the works or operations of the Trustees or the

A.D. 1895.

bursting leakage or failure of the said aqueduct conduit or line of pipes or other work of the Trustees the Trustees shall forthwith make good or remove such injury or interruption at their own expense or the North British Company may do the same and the Trustees shall pay to the North British Company all costs and expenses loss or damage incurred or sustained by them in respect thereof;

If any difference shall arise between the Trustees and the North British Company or between their respective engineers as to any plans or sections or as to the mode of executing any works or as to any costs loss or damage provided for in this section such difference shall be determined by an engineer to be appointed by the sheriff on the application of either the Trustees or the North British Company and the costs of any such reference shall be borne and paid by the Trustees.

For the protection of the Caledonian Railway Company.

18. The following provisions for the protection of the Caledonian Railway Company (herein-after called "the Caledonian Company") shall unless otherwise agreed between the Trustees and the Caledonian Company apply and have effect (that is to say):—

The aqueduct conduit or line or pipes (Aqueduct No. 1) by this Act authorised shall be carried over the railway of the Caledonian Company near Broughton Station by means of a bridge to be constructed for such purpose by the Trustees of brick stone iron or any of those materials combined alongside and on the east of the existing bridge carrying the public road from Moffat to Edinburgh over the said railway and of such span and height over the railway and in such manner as shall be determined by the engineer of the Caledonian Company;

The Trustees shall not enter upon or interfere with the railway works or land belonging to the Caledonian Company further or otherwise than may be necessary for constructing maintaining and effecting repairs to the said bridge so to be constructed by the Trustees and any works of the Trustees to be laid across such bridge and they shall not alter or interfere with the lines or levels of any such railway or works and shall only acquire such an easement or servitude over or in any land or property of the Caledonian Company as may be required for making maintaining repairing and using the said bridge and works of the Trustees in accordance with the provisions of this Act;

All works of the Trustees for constructing and maintaining the said bridge and for laying down executing or subsequently

maintaining repairing or renewing the said bridge aqueduct conduit or line of pipes and any other works of the Trustees which may in any way affect the railway works or land of the Caledonian Company shall be executed and subsequently maintained repaired and renewed under the superintendence and to the satisfaction of the engineer of the Caledonian Company and according to plans and sections and in such manner and of such design and materials as shall be previously approved by such engineer and in all things by and at the expense of the Trustees ;

The Trustees shall restore and make good any injury or interference caused by them to the railway works or land of the Caledonian Company in the construction maintenance and renewal of the said bridge and the said aqueduct conduit or line of pipes ;

All the works and operations of the Trustees under this Act shall be constructed executed and done so as not to cause any injury to the railway or works of the Caledonian Company or any interruption to the passage or conduct of traffic over the railway ;

If any such injury or interruption shall arise from or be in any way owing to the works or operations of the Trustees or the bursting leakage or failure of the said bridge aqueduct conduit or line of pipes or other work of the Trustees the Trustees shall forthwith make good or remove such injury or interruption at their own expense or the Caledonian Company may do the same and the Trustees shall pay to the Caledonian Company all costs and expenses loss or damage incurred or sustained by them in respect thereof ;

If any difference shall arise between the Trustees and the Caledonian Company or between their respective engineers as to any plans or sections or as to the mode of executing any works such difference shall be settled by arbitration.

19. The Trustees may by means of the waterworks herein-before described or some of them take appropriate impound store use collect abstract divert and distribute for the purposes of the water supply of the Trustees and for providing compensation water as herein-after mentioned the waters of the stream known as Talla Water in the county of Peebles including the waters of the stream known as the Gameshope Burn a tributary of the said Talla Water and all brooks waters springs streams and tributaries flowing into or arising within the said Talla Water and Gameshope Burn or either of them and flowing into or within the site of the Talla

Power to
take and
supply water.

A.D. 1895. Reservoir and may from such works supply water within and beyond the limits of the Act for domestic and other purposes for which the Trustees are authorised to supply the same and for providing compensation water.

For protection of persons interested.

20. The following provisions shall have effect and shall be binding on the Trustees for the protection of all persons interested in the waters flowing down the said Talla Water and the River Tweed (that is to say):—

- (1) The Trustees shall as soon as the waterworks authorised by this Act are completed so as to be able to afford the supply of compensation water herein-after mentioned and during every day of twenty-four hours in every year until the amount of compensation water herein-after provided for is determined and no longer permit to flow or shall deliver regularly and continuously into the Talla Water from the Talla Reservoir by this Act authorised from or at the foot of the foresaid embankment not less than four million gallons of water ;
- (2) For the purpose of determining with greater accuracy the compensation water to be provided by the Trustees there shall be two arbiters James Wilson and Benjamin Hall Blyth or failing them or either of them some competent persons or person to be appointed instead of them or him by the President of the Institution of Civil Engineers and so from time to time and an oversman in case of difference shall be appointed by the two arbiters and in case they differ as to such appointment or if the person should die or refuse or become incapable to act an oversman shall be appointed by the said president and the said arbiters and oversman are in this section referred to as "the arbiters" ;
- (3) Immediately after the passing of this Act the arbiters shall at the cost of the Trustees (including the fees and costs of the arbiters) cause to be erected and thenceforward maintained during the seven years next following the first day of January one thousand eight hundred and ninety-six such number of rain gauges and in such positions upon the drainage area of the Talla Reservoir as they shall think fit and within six months after the termination of the said seven years they shall determine the amount of the available rainfall on the said area and the Trustees shall thereafter in lieu of the amount of compensation water herein-before specified permit to flow or shall deliver regularly and continuously into the Talla Water from the said reservoir a uniform daily quantity of water

- equivalent in every year to one-third of the said available rainfall;
- (4) The available rainfall shall be determined by the arbiters after taking into consideration all the circumstances of the case;
- (5) The Trustees shall construct and for ever thereafter maintain a suitable measuring gauge over or through which the quantity of compensation water required by this Act shall flow or be delivered;
- (6) The said gauge shall be open to the inspection of all persons interested at all reasonable times;
- (7) If any difference arise between the Trustees and any person interested as aforesaid with respect to any of the matters in this section contained so far as not otherwise provided such difference shall be settled by an arbiter who (unless otherwise agreed on between the parties in difference) shall on the application of either party after seven days notice in writing to the other of them be named by the sheriff and the costs of and incident to the reference shall be borne as the arbiter shall direct.

21. Subject to the provisions of this Act the compensation water discharged under the provisions of this Act shall if and while discharged be deemed to be full compensation to all mill-owners and other persons interested in the waters flowing down the said Talla Water and the River Tweed for the water intercepted and appropriated for the purposes of this Act.

22.—(1.) The Trustees and the Commissioners for the River Tweed appointed by and acting in pursuance of the Tweed Fisheries Act 1857 for the execution of that Act and the Tweed Fisheries Amendment Act 1859 (herein-after referred to as “the Tweed Commissioners”) shall within twelve months after the passing of this Act (unless they otherwise agree) refer to two arbiters and an oversman in case of difference to be appointed under the provisions of the Lands Clauses Acts the question whether the salmon fishings in the River Tweed will be injuriously affected by the construction of the Talla Reservoir and the consequent abstraction of water from the said Talla Water and if so to fix and determine subject to the provisions of this Act the compensation (if any) for such injury and the amount which may be so found shall be deposited in the National Bank of Scotland Limited Berwick-on-Tweed to the credit of the treasurer of the Tweed Commissioners and the Assistant Secretary of the Board of Trade for the Fisheries Department and

A.D. 1895. the Inspector of Salmon Fisheries for Scotland as Trustees who may invest the same in any securities authorised by law for trustees and such amount together with the interest thereon shall be expended by the Tweed Commissioners at such times and in such manner as they with the approval of the said Assistant Secretary and Inspector shall think fit for the advantage of the salmon fishings of the River Tweed.

(2.) The arbiters or oversman as the case may be shall in fixing any such compensation take into consideration all the circumstances of the case.

No fish ladder or pass to be erected.

Power to agree for easements &c.

23. No fish ladder or fish pass shall be constructed into the Talla Reservoir.

24. The Trustees may subject to the provisions of this Act take by agreement and any person by the Lands Clauses Acts or otherwise enabled to sell lands may grant to them any easement servitude right or privilege (not being an easement servitude right or privilege of water in which others than the parties to the agreement have an interest) in over affecting or belonging to lands at a price or yearly rent feu duty or otherwise but in the case of a person not enabled otherwise than by the said Acts to sell lands then subject and according to the provisions relative to the taking of lands by agreement contained in the said Acts and for the purposes of this section any such easement servitude right or privilege shall be deemed to be lands within the meaning of those Acts.

Additional lands for facilitating construction of works.

25. Subject to the provisions of this Act for the purpose of facilitating the construction of the works by this Act authorised the Trustees may in addition to the lands required for the works by this Act authorised enter upon take and use compulsorily or by agreement the lands numbered on the deposited plans 218 219 220 221 222 223 230 231 in the united parishes of Broughton Glenholm and Kilbucho and county of Peebles and described in the deposited book of reference.

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

26. And whereas in the construction of the railways and conduits hereby authorised or otherwise in exercise of the powers of this Act it may happen that portions only of the lands houses or other buildings or manufactories shown on the deposited plans may be sufficient for the purposes of the same and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands houses or other buildings

or manufactories described in the First Schedule to this Act and whereof portions only are required for the purposes of this Act may (if such portions can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto) be required to sell and convey to the Trustees the portions only of the premises so required without the Trustees being obliged or compellable to purchase the whole or any greater portion thereof the Trustees paying for the portions taken by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise Provided that if in any case in the opinion of the jury arbiters or other authority as aforesaid any such portion cannot be severed from the remainder of such property without material detriment thereto the Trustees may at any time within one month after the date of the final decision of such jury arbiters or other authority withdraw their notice to treat for the portion required by them and thereupon they shall pay to the owner of and other parties interested in the property in respect of which or of any portion of which they have given notice to treat all loss and damage sustained and all costs charges and expenses (as the same shall be taxed as between solicitor and client) reasonably incurred by them in consequence of such notice Provided also that nothing in this section contained shall be held as determining whether the properties described in the said schedule are or are not subject to the provisions of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

27. In addition to the lands authorised to be taken or acquired under the powers of this Act the Trustees may purchase by agreement lands not exceeding twenty acres for the purposes and in connexion with the works by this Act authorised.

Lands for extraordinary purposes.

28. The powers of the Trustees for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Limiting time for exercise of compulsory powers of purchase.

29. If the works authorised by this Act are not completed within ten years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Trustees for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Trustees from maintaining using extending enlarging altering replacing relaying increasing adding to or removing any of their conduits aqueducts mains or

Period for completion of works.

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pipes filter beds tanks and other works at any time and from time to time as occasion requires for the purpose of supplying water within the limits of the Act.

Restriction
on taking
houses of
labouring
class.

30. The Trustees shall not under the powers of this Act purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied. 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.

Trustees
may enlarge
or increase
number of
pipes.

31. The Trustees may from time to time subject to the provisions of this Act lay down maintain use extend alter renew relay replace enlarge and increase the number and size of the mains pipes filter-beds tanks and other works and conveniences from time to time in use or required for conveying and distributing water for the purposes of the undertaking. Provided always that such extension enlargement or increase shall be executed only on lands or property belonging to the Trustees or over which they may have an easement under the provisions of this Act or which may be acquired by them by agreement or which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open and break up for such purposes.

Pressure.

32. The water to be supplied from any main or pipe of the Trustees need not be supplied in any case at a level above or at a greater pressure than can be supplied or afforded by gravitation from the service reservoirs or tanks from which the supply is taken.

Suspension
of constant
supply.

33. The Trustees notwithstanding anything to the contrary contained in the Waterworks Clauses Acts 1847 and 1863 or in the recited Acts shall not until the expiration of seven years from and after the passing of this Act or until the waterworks authorised by this Act shall have been completed and the water therefrom introduced whichever shall first happen be bound to have the water constantly laid on under pressure at a greater height than fifty feet

above the level of such streets as are more than two hundred feet above ordnance datum level. A.D. 1895.

34. The Trustees may hold any lands acquired by them under the powers of this Act and may also by agreement purchase acquire and hold or take easements or restrictions over any other lands which may in their opinion be necessary or desirable for the purpose of securing the purity of the water in the drainage area of the waterworks of the Trustees and of protecting their water supply against pollution nuisance encroachment or injury and so long as such necessity shall continue such lands so acquired or to be acquired shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts.

Power to acquire and hold lands for protection of works and prevention of pollution.

The Trustees may let for such period as they think fit or sell any land acquired under this or the next following section on such terms conditions and restrictions as regards its use as the Trustees may see fit and to secure that such land shall not be broken up for tillage and that no buildings which may prejudicially affect the water supply or the purity of the water shall be erected thereon. Provided also that the proceeds of any such sale shall only be applied to purposes of this Act to which capital is properly applicable.

35. The owner for the time being of the lands of Gameshope in the county of Peebles may subject to the provisions of the Entail Acts sell to the Trustees and the Trustees may for the purpose of protecting the drainage area and the water supply against pollution and encroachment and of acquiring the water springs therein purchase the said lands of Gameshope or part thereof belonging or reputed to belong to Sir Graham Graham Montgomery Baronet as heir of entail in possession of the said lands.

Power to purchase lands of Gameshope.

36. Nothing in this Act shall exonerate the Trustees from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any lands taken or acquired under the powers of this Act and the Trustees shall not erect or permit the erection of any buildings on such lands except such as are required in connexion with their waterworks undertaking or for farm buildings.

Prohibition against nuisance and restrictions against buildings.

37. On any sale by the Trustees of any lands the Trustees may reserve to themselves all or any part of the water rights or other easements belonging thereto and may make the sale subject to such reservation accordingly and also subject to such other reservations special conditions restrictions and provisions as they may think fit.

Power to reserve rights on sale of lands.

A.D. 1895.

Power to
acquire ease-
ments only.

38. Subject to the provisions of this Act the Trustees may instead of acquiring lands for the purpose of any aqueducts conduits or lines of pipes by this Act authorised acquire such easements over and rights in such lands as they may require for the purpose of from time to time constructing reconstructing placing laying inspecting maintaining cleansing repairing replacing enlarging adding to conducting or managing the same and may give notice to treat in respect of such easements and rights and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such easements and rights as fully as if the same were lands within the meaning of such Acts :

Provided that as regards any lands taken or used by the Trustees for the purpose of laying aqueducts conduits or pipes therein where such aqueducts conduits or pipes are laid underground the Trustees shall not (unless they give notice to treat for such lands and not merely for easements therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been taken or used by the Trustees :

Provided always that nothing herein contained shall authorise the Trustees to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Trustees to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement shall be endorsed with notice of this proviso but this proviso shall not apply in regard to so much of the Aqueduct No. 1 by this Act authorised as shall be in tunnel and at a depth of not less than forty feet from the surface of the ground.

Temporary
occupation
of lands
during con-
struction of
works.

39. The provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof shall apply to the railways embankment reservoirs aqueducts conduits and road authorised by this Act and expressions referring to the centre line of the railway shall mean in the case of the railways and embankment authorised by this Act the centre lines thereof respectively and in the case of the reservoirs authorised by this Act the top water contours thereof as shown on the deposited plans and in the case of the aqueducts conduits and road authorised by this Act the

powers of the said Act with respect to the temporary occupation of lands shall apply only to the use of private roads. A.D. 1895.

40. The Trustees may from time to time establish and maintain such wires and apparatus for the transmission of messages and other communications wholly or partially by means of electricity or by telephone (which wires and apparatus are in this section called "any such apparatus as aforesaid") as they think expedient or necessary for the better execution of any of the powers or authorities for the time being vested in them and in relation to any such apparatus as aforesaid for the purposes of the Telegraph Act 1863 the Trustees shall be in the like position in all respects as a company authorised by special Act of Parliament to construct and maintain telegraphs would be or might have been under that Act but nothing in this Act shall authorise the Trustees to work any such apparatus as aforesaid in consideration of any money payment or other valuable consideration or for any purpose other than the execution of their powers and authorities aforesaid or in contravention of any exclusive privilege by law vested for the time being in the Postmaster-General or to construct any such apparatus as aforesaid which shall interfere in any way with any telegraph in the possession or under the control of the Postmaster-General.

Power to establish communication with works by means of electricity.

41. The Trustees may undertake to pay to the Postmaster-General any loss he may sustain by reason of the establishment or maintenance at the Trustees request of any post or telegraph office or of any additional facilities (postal or other) in the district of any county council or district committee of such council in connexion with the works authorised by this Act and any expenses incurred by the Trustees under such undertaking may be defrayed out of any revenue or funds of the Trustees.

Trustees may give guarantee to Postmaster-General.

42. For the purpose of executing any necessary work of repair or of cleansing or of examining any reservoir filter or tank aqueduct or conduit by this Act authorised the Trustees may cause the water in any such reservoir filter or tank aqueduct or conduit to be temporarily discharged into any available stream or watercourse.

Powers for repair of aqueducts and temporary discharge of water into streams.

In the exercise of the power conferred by this section the Trustees shall do as little damage as may be and shall make full compensation to all persons for any damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration.

43. Captain Robert Gordon Gordon Gilmour and certain other persons carrying on business as the Liberton Waterworks Company

Transfer of Liberton

A.D. 1895.
Waterworks
Company
undertaking.

(in this section referred to as "the Company") may sell and transfer and the Trustees shall purchase and take over at the price of three thousand three hundred and seventy-five pounds the whole works and undertaking of the Company together with all feu charters feu contracts leases agreements servitudes or easements and privileges held by the Company so far as the Company lawfully may transfer the same (all in this section referred to as "the undertaking of the Company") and with respect to the carrying out of the said sale and purchase the following provisions shall have effect (that is to say) :—

- (1) The Trustees shall pay the said price as at the fifteenth day of May one thousand eight hundred and ninety-five together with interest thereon at five per cent. per annum from that date till paid and on payment the undertaking of the Company shall vest in the Trustees and the Trustees may in their discretion subject however to the provisions herein-after contained use or discontinue the use of the undertaking of the Company The receipt of the said Captain Robert Gordon Gordon Gilmour and of any two other members of the Company and failing the said Robert Gordon Gordon Gilmour then of any three members of the Company shall be a sufficient discharge to the Trustees for the said price ;
- (2) The Trustees shall repay to the Company the cost price of any additional pipes servitudes and repairs (if any) as may be incurred by the Company between the fourteenth day of March one thousand eight hundred and ninety-five and the date of the Trustees entering into possession with interest at five per cent. per annum from the said fifteenth day of May till paid ;
- (3) The date of the Trustees entering into possession of the undertaking of the Company shall be the fifteenth day of May one thousand eight hundred and ninety-five ;
- (4) The Company shall be entitled to all arrears of rates and also to the whole rates payable to the Company for water supplied by the Company for the year to the said date of entry ;
- (5) The Trustees shall fulfil and so free and relieve the Company of all obligations conditions and undertakings of whatever kind incumbent on or affecting the Company subsequent to the date of entry including all obligations undertaken by the Company in connexion with the water supply and undertaking The Trustees shall also be bound to supply water to those owners and occupiers of subjects within the parish of Liberton

who shall be supplied or be entitled to be supplied by the Company at the date of the Trustees entering into possession including the persons and for the subjects mentioned in a feu charter by the deceased Walter James Little Gilmour in favour of the Company dated the third day of January one thousand eight hundred and sixty-eight and recorded in the division of the General Register of Sasines applicable to the county of Edinburgh the twenty-fourth day of July one thousand eight hundred and sixty-nine notwithstanding that the subjects contained in the said feu charter may have been reconveyed to the superior.

A.D. 1895.

44. Section 31 of the Act of 1874 shall be read as if the words “ Provided also that except with the consent in writing of the “ Liberton Waterworks Company the Trustees shall not supply any “ water within that portion of the said Parish of Liberton marked “ and enclosed with a yellow line on a plan annexed to a feu charter “ by Walter James Little Gilmour of Craigmillar in favour of the “ Trustees for the Liberton Waterworks Company dated 3rd “ January 1868 ” were omitted therefrom and the said section is hereby amended accordingly.

Amendment
of Act of
1874.

45. The limits of compulsory supply are hereby extended to and shall comprise and include the city of Edinburgh the town of Leith (including the port thereof) and town of Portobello and the provisions of the recited Acts and this Act shall apply to the said extended limits of compulsory supply as fully and effectually as such provisions apply to the limits of compulsory supply as defined in the recited Acts Provided always that such extension of the limits of compulsory supply shall be and be deemed to be an extension within the meaning of section 11 of the Edinburgh Municipal and Police Extension Act 1882 of section 13 of the Edinburgh Extension and Sewerage Act 1885 and of section 17 of the Edinburgh Municipal and Police Extension Act 1890.

Extension of
limits of
compulsory
supply.

46. The Trustees may supply water in bulk beyond the limits of the Act to any owners and occupiers of lands and heritages and to any local authority or other public authority or person within the parishes of Lasswade Glencorse and Penicuik in the county of Midlothian and the parishes of Linton Kirkurd Skirling the United parishes of Broughton Glenholm and Kilbucho and the parishes of Drumelzier and Tweedsmuir all in the county of Peebles from any of the mains conduits or pipes of the Trustees or from any of the reservoirs of the Trustees by this Act authorised and the Trustees may contract with all or any such persons and authorities for such supply

Power to
Trustees and
local authori-
ties &c. to
agree as to
supply of
water.

A.D. 1895. upon such terms and conditions and for such period or periods of time as they may agree Provided always that such supply shall not prejudicially affect or restrict the supply of water from time to time required within the limits of the Act Provided further that the supply of water by the Trustees under this section shall be subject to the consent of any local authority or any company who at the passing of this Act are authorised to supply water within the said parishes.

Estimates
&c. by
Trustees to
include
purposes of
this Act.

47. The estimate required to be made and the rates rents and charges authorised and required to be levied by the Trustees under and for the purposes of the recited Acts shall be made levied and charged so that the same shall not only include and be sufficient with the other rates and revenue of the Trustees for the purpose of defraying the annual sums or expenditure specified in the recited Acts but also the interest of any money which may be borrowed or raised under the provisions of this Act and the payment to the sinking fund and the expense of maintaining and managing the additional works authorised by this Act and all other annual expenditure arising out of the exercise of the powers by this Act conferred or consequent on the construction maintenance and use of the works so authorised.

Rates a
preferable
charge.

48. All rates rents and charges imposed under the recited Acts and this Act shall in the case of bankruptcy insolvency or liquidation be a preferable claim to all debts of a private nature due by the person or persons so rated or charged or by the person or persons liable in payment of such rates rents and charges.

As to
borrowing
powers in
recited Acts.

49. The powers to borrow and raise money contained in the recited Acts and to grant security as provided by the next following section for such borrowed money shall and may be exercised by the Trustees for the purposes of this Act as well as for the purposes of the recited Acts and the money so borrowed may be applied for the said purposes so far as the same are purposes to which capital is properly applicable.

Power to
borrow
additional
money.

50. In addition to any money which the Trustees have borrowed or raised or are authorised to borrow or raise under the recited Acts the Trustees may from time to time under the authority of this Act borrow or raise all such sums as they think requisite for the purposes of the recited Acts and this Act and for the purchase of lands and construction of the works authorised by this Act and for the other purposes of this Act and of the undertaking not exceeding the sum of seven hundred and fifty thousand pounds on the security of the

several rates rents and charges leviabie by the Trustees under the provisions of the recited Acts and this Act and on the other revenues of the Trustees and if after having borrowed or raised the said sums or any part thereof the Trustees pay off the same except by means of the sinking fund it shall be lawful for them again to borrow or raise the amount so paid off and so from time to time And all the provisions as to security reborrowing borrowing on cash account funding of debt granting of terminable annuities and application for judicial factor contained in the recited Acts with reference to the sums therein authorised to be borrowed shall subject to the provisions of this Act apply to the additional sums to be borrowed under this Act. A.D. 1895.

51. The Trustees shall annually after the expiration of ten years from the fifteenth day of May one thousand eight hundred and ninety-five in regard to all sums to be borrowed or raised under the authority of this Act set apart as a sinking fund a sum of not less than one pound per centum per annum on the amount for the time being borrowed or raised for the purposes of this Act and such sinking fund shall be accumulated with interest and shall be from time to time applicable to the redemption of mortgages or annuities and to no other purpose whatsoever Provided that whenever any mortgage granted under the authority of this Act shall have been paid off or redeemed out of such sinking fund the Trustees shall in each year until the whole of such borrowed moneys shall have been paid off and redeemed pay into the sinking fund the amount of interest which would have been payable on such mortgage or mortgages if the same had not been paid off or redeemed. Sinking fund.

52. The several sums to be borrowed by the Trustees on mortgage under the authority of this Act shall be applied for the purposes of the recited Acts and this Act only to which capital is properly applicable. Application of borrowed money.

53. The powers conferred on the Trustees by section 4 of the Act of 1880 and by section 4 of the Act of 1889 enabling them to borrow for current expenses as therein provided shall be held to be in addition to any sums authorised to be borrowed by the recited Acts and this Act. Borrowing power for current expenses.

54. Nothing in this Act contained shall prejudice or affect the several preferences created by the Act of 1869 or any annuity debentures mortgages or assignations in security granted by the Trustees under authority of the recited Acts and subsisting at the passing of this Act and the same shall during the continuance Saving existing annuities and securities.

A.D. 1895. thereof be as valid and effectual in all respects as if this Act had not been passed and shall have priority to any money which may be raised under this Act. Provided always that all securities granted by the Trustees for money borrowed or raised under this Act shall rank together *pari passu* without preference or priority the one over the other.

Protection of lenders from inquiry.

55. Any person lending or paying money under the recited Acts or this Act to the Trustees shall not be bound to inquire as to the observance by the Trustees of any provisions of the recited Acts or this Act or of any Act incorporated therewith or be bound to see to the application or be answerable for any loss or non-application of such money or of any part thereof.

Application of forms of mortgage &c.

56. In borrowing money under this Act the mortgages and transfers of the same and the warrants for interest thereon shall be in the forms appended to the Act of 1874 as nearly as may be subject to the enactments of the Act of 1876 the Act of 1877 the Act of 1880 and the Act of 1889 and shall refer to the title of this Act but it shall not be necessary in any mortgages which may be hereafter granted under the powers of the Trustees to refer to the objects for which the money is borrowed.

Interest warrants applicable to all mortgages.

57. The power of issuing interest warrants with mortgages under the Act of 1874 shall apply to all mortgages of the Trustees whether granted or to be granted before or after the passing of this Act including the mortgage debt of the dissolved Edinburgh Water Company and any mortgages granted under the Act of 1869 in payment or exchange for such mortgage debt or any portion thereof.

New works to form part of Trustees' undertaking.

58. Subject to the provisions of this Act the works to be constructed under the authority of this Act shall for all purposes whatsoever be and be deemed part of the existing undertaking of the Trustees.

Application of recited Acts.

59. All the powers and provisions vested in and applicable to the Trustees by the recited Acts or any of them with reference to their undertaking in so far as they are not repealed or altered by any of the recited Acts and this Act shall be and the same are hereby in so far as applicable extended and applied to the purposes of this Act.

Expenses of Act.

60. All the costs charges and expenses incurred preparatory to and in applying for obtaining and passing this Act or in any way incidental thereto shall be paid by the Trustees out of the rates to be levied by them or other revenue of the Trustees or moneys borrowed or to be borrowed on the security of the same.

SCHEDULES referred to in the foregoing Act.

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THE FIRST SCHEDULE.

LANDS HOUSES OR OTHER BUILDINGS OR MANUFACTORIES OF
WHICH PORTIONS MAY BE TAKEN WITHOUT TAKING THE WHOLE.

Parish.	Numbers on Deposited Plans.
RAILWAY No. 1.	
United parishes of Broughton Glen- holm and Kilbucho - - -	163 163 165 166 167 168.
Tweedsmuir - - -	65.
Drumelzier - - -	38 43 44 45 47 48.
CONDUITS.	
Drumelzier - - -	8 12.
United parishes of Broughton Glen- holm and Kilbucho - - -	85 92.
Kirkurd - - -	2 3 36 51 52.
Penicuik - - -	37 59 59 60 60.
Glencorse - - -	30 32.
Lasswade - - -	2 16 17 18.
Colinton - - -	3.
Liberton - - -	8.

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THE SECOND SCHEDULE.

MINUTE of AGREEMENT between the Caledonian Railway Company (herein-after called "the Company") of the first part and the Edinburgh and District Water Trustees incorporated by the Edinburgh and District Water Works Act 1869 (herein-after called "the Trustees") of the second part.

WHEREAS the Trustees are promoting a Bill in the present session of Parliament for authority to introduce an additional supply of water within their district from Talla Water in the county of Peebles and the tributaries thereof and for that purpose among other things to construct the railways described in the Bill And whereas the railways proposed to be authorised by the Bill consist of first a railway (herein called "Railway No. 1") eight miles two furlongs and 8·5 chains in length commencing by a junction with the Caledonian Railway (Symington Biggar and Peebles Branch) at a point six hundred and forty yards or thereby measured in a south-easterly direction along the said branch railway from the centre of the bridge carrying the said branch railway over the Biggar Water in the parish of Stobo and county of Peebles and terminating at or near the embankment of the Talla Reservoir in the parish of Tweedsmuir and county of Peebles Second a railway (herein called "Railway No. 2") two miles five furlongs 8·3 chains in length commencing by a junction with Railway No. 1 at a point in a straight line between Rachan House and Whiterig Farm four hundred and fifty yards or thereabouts measured in an easterly direction from the eastmost corner of Rachan House in the united parishes of Broughton Glenholm and Kilbucho and county of Peebles and terminating at a point sixty yards or thereabouts north of the north fence of the said branch railway of the Company in the boundary line between the united parishes of Broughton Glenholm and Kilbucho and the parish of Skirling and county of Peebles Third a railway (herein called "Railway No. 3") one furlong 6·9 chains in length commencing by a junction with the sidings at the Broughton Station on the Caledonian Railway (Symington Biggar and Peebles Branch) at a point two hundred yards or thereabouts measured in a westerly direction from the centre of the bridge carrying the road from Moffat to Edinburgh over the Biggar Water in the united parishes of Broughton Glenholm and Kilbucho and county of Peebles and terminating by a junction with Railway No. 2 at a point five hundred and seventy yards or thereabouts measured in a westerly direction from said bridge and forty yards or thereabouts north of the north fence of the said branch railway of the Company in the united parishes of Broughton Glenholm and Kilbucho and county of Peebles And whereas it is proposed by the Bill that the proposed railways should be used exclusively for the

purpose of the water works proposed to be authorised by the Bill and that after the completion of the said works the rails and sleepers shall be taken up and the lands so far as not required for any of the other works proposed to be authorised by the Bill shall be dealt with as superfluous lands And whereas it is further proposed by the Bill that the Trustees may run over and use with their engines carriages and waggons and officers and servants of the Trustees or their contractors for the purposes proposed to be authorised by the Bill so much of the Company's said branch railway as lies between a point seven hundred yards or thereabouts west of the bridge carrying the public road from Moffat to Edinburgh over said railway and the point one thousand six hundred and seventy-five yards or thereabouts south-east from said bridge together with the stations on said railway and others in the said Bill specified And whereas the Company object to the powers proposed to be conferred on the Trustees by the Bill so far as affecting or relating to the Company's railway and works and have lodged a petition against the said Bill And whereas in the treaty between the Company and the Trustees for the settlement of the Company's opposition to the Bill it has been agreed as underwritten Now therefore the Company and the Trustees have agreed and do hereby agree and bind and oblige themselves as follows :—

1. Railway No. 2 instead of commencing by a junction with Railway No. 1 at the point defined in the Bill and shown on the deposited plans referred to in the Bill shall commence by a junction with the Company's railway at a point about two hundred and seventy yards west of the eight mile post at the station house of Broughton Station and the portion of Railway No. 2 east of the altered junction of that railway shall not be formed.

2. Railway No. 3 which is rendered unnecessary in consequence of the alteration of the junction of Railway No. 2 with the Company's railway shall not be formed and shall be withdrawn from the Bill.

3. In lieu of the portion of Railway No. 2 not to be formed the Company's railway shall be doubled by the construction of an additional line of rails on land belonging to the Company between the nine mile post situated east of Broughton Station and the eight mile post situated at that station and the necessary sidings for the reception and storage of traffic to be conveyed by the Trustees or their contractors on the proposed railways or by the exercise of the running powers herein-after conferred by the Company on the Trustees shall be formed at Broughton Station and the Trustees may for the purpose and no other of the conveyance of minerals stone merchandise materials and plant and of officers servants employés and workmen of the Trustees and their contractors and of the conveyance of clay from the land proposed by the Bill to be taken by the Trustees for clay and shown on the deposited plans to the Trustees works at Talla run over and use with their engines carriages and waggons and officers and servants of the Trustees or their contractors so much of the Company's railway as lies between the junction of Railway No. 1 and the altered junction of Railway No. 2 with the Company's railway together with the said reception and storage sidings.

4. The running powers hereby conferred on the Trustees shall be free of all tolls rates and charges or any other payment whatever but shall be exercised only during the prescribed period proposed by the Bill or any extended period

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prescribed by any subsequent Act for the completion of the works in the construction of which the proposed railways and running powers are to be used and shall be subject to the rules and regulations of the Company for the time being in force. Any difference between the Trustees and the Company as to the exercise of such running powers shall be settled by an arbiter to be appointed failing agreement by the Board of Trade on the application of either party.

5. In consideration of the running powers on and over the Company's railway and the said reception and storage sidings herein-before conferred by the Company on the Trustees the whole cost charges and expenses of and connected with the doubling of the Company's railway as before provided and the formation of the reception and storage sidings herein-before provided for including the cost of widening the bridge carrying the Company's railway over the Biggar Water east of Broughton Station and of any land required for the said reception and storage sidings other than land belonging to the Company together with the additional cost of signalling (if any) and maintenance by the Company of the said portion of their railway in consequence of the said additional line of doubling and the said reception and storage sidings during the exercise by the Trustees of the running powers herein-before conferred on them shall be borne and defrayed by the Trustees. Provided that the Company shall if need be provide at their own cost an additional siding for the accommodation of the traffic of the Trustees or their contractors conveyed by the Company and exchanged at Broughton Station and the said additional line of doubling and reception and storage sidings so far only as the same are formed on land belonging to the Company shall be and continue the sole property of the Company and shall subject to the rights and powers of the Trustees to run over and use the same as herein-before provided form part of the Company's railway and the ordinary Broughton Station rates and charges shall be payable by the Trustees and their contractors in respect of all traffic conveyed by the Company and exchanged between the Company's railway and the said railways at Broughton Station.

6. The works of and connected with the widening of the Company's railway and the construction of the reception and storage sidings herein-before provided for shall be executed and carried out and completed by the Company according to plans to be prepared by their engineer and at his sight and to his satisfaction and on the completion of the said works the cost thereof except the cost of any land belonging to the Company shall be paid by the Trustees to the Company. Provided that in the event of any difference between the Company and the Trustees as to the cost of the doubling and said reception and storage sidings such difference shall be referred to an engineer to be appointed by the Board of Trade on the application of either party.

7. This agreement is conditional on the Bill becoming an Act and is subject to the sanction of Parliament and to such alterations as Parliament may think fit to make therein. Provided that in the event of any alteration being made therein which in the opinion of Charles Alfred Cripps Esquire Q.C. is material it shall be competent to either party to withdraw the same. IN WITNESS WHEREOF these presents consisting of this and the three preceding

pages are (under the declaration that the syllable "way" of the word "railways" occurring in the last line of page first the words "and to be withdrawn" on the first line and the words "from the Bill" on the second line both of Article Third on page second the word "is" in the sixteenth line and the words "for the purpose of tolls rates and charges and all other purposes" on the nineteenth line both of Article Fifth on page third are all delete and that the word "are" is interlined so as to be read in place of said deleted word "is" all before execution) executed in duplicate as follows videlicet:—They are sealed with the corporate seal of the said The Edinburgh and District Water Trustees and subscribed for and on their behalf by the Right Honourable Andrew Macdonald Lord Provost of the City of Edinburgh their chairman and by William Boyd Writer to the Signet Edinburgh their clerk all at Edinburgh on the eleventh day of April eighteen hundred and ninety-five before these witnesses James Russell city officer Edinburgh and Alexander Duncan clerk to the said William Boyd and they are sealed with the common seal of the said Caledonian Railway Company and subscribed by John Blackburn Secretary of the said Company for and on behalf of the said Company all at Glasgow on the twenty-sixth day of the month and year last mentioned before these witnesses John Johnstone Haining and John Tully Clarke both clerks to the said Company in their Secretary's office in Glasgow.

A.D. 1895.

J. J. HAINING,

Witness.

J. TULLY CLARKE

Witness.

JAS. RUSSELL

Witness.

ALEX. DUNCAN,

Witness.

J. BLACKBURN

Secy.

A. McDONALD L.P.

WILLIAM BOYD

Clerk.

L.S.

L.S.

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