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An Act to incorporate Commissioners, and to vest in them the undertaking of the Dundee Water Company; and for other purposes. [24th June 1869.]

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WHEREAS by an Act passed in the first year of the reign of Her present Majesty Queen Victoria, intituled "An Act for "supplying the Royal Burgh of Dundee and Suburbs thereof with "Water," it was enacted that, from and after the passing of the Act, the person for the time being holding the office of provost of the said burgh, together with the persons to be elected in manner set forth in the said Act, should be commissioners for the purpose of providing a plentiful supply of pure and wholesome water for the said burgh and suburbs, and for certain other purposes set forth in the said Act: 7 W. 4. & 1 Vict. c. cxxvi.

And whereas the said Act has not been carried into execution, and the powers under the said Act have become inoperative:

And whereas by "The Dundee Waterworks Act, 1845," the Dundee Water Company was incorporated, with power to construct works and supply the Royal Burgh of Dundee and suburbs thereof with water, and works were constructed by the said company accordingly, and water supplied thereby: 8 & 9 Vict. c. cxxxvii.

And whereas by "The Dundee Waterworks (Extension) Act, 1853," "The Dundee Waterworks Act, 1862," and "The Dundee Waterworks (Extension) Act, 1866," the said company was authorized to construct additional works; and additional works were constructed accordingly: 16 & 17 Vict. c. l. 25 & 26 Vict. c. xliii. 29 & 30 Vict. c. cxxxiii.

And whereas the town of Dundee has a large and rapidly increasing population and trade:

And whereas it is expedient and would be for the public advantage that the supply of water to the said town and suburbs and places adjacent should be wholly under the control of a body representing and acting on behalf of the community, and that the

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undertaking of the said company should be acquired by the said body:

And whereas an agreement has been entered into between the magistrates and town council of Dundee and the said company for the transfer of the undertaking of the company to a body of commissioners to be constituted by this Act, upon the terms and conditions which appear in the agreement set forth in schedule A. to this Act:

And whereas it is expedient that the said agreement should, subject to the provisions of this Act, be confirmed, and that commissioners should be appointed to execute and carry into effect the purposes of this Act, and that all necessary powers should be conferred upon them:

And whereas it is also expedient that the said first-recited Act should be repealed:

And whereas these purposes 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:

Short title.

1. This Act may for all purposes be cited as "The Dundee Water Act, 1869."

7 W. 4. & 1 Vict. c. cxxxvi. repealed.

2. The first-recited Act is hereby repealed, and all the wells and property which, previous to the passing of that Act, belonged to the magistrates and council of Dundee, and which were by the said Act vested in the commissioners appointed under the same, shall be and continue vested in the said magistrates and council.

10 & 11 Vict. c. 16. incorporated.

3. "The Commissioners Clauses Act, 1847," (with the exception of the clauses and provisions with respect to the following matters; that is to say, with respect to the qualification of commissioners; with respect to the election and rotation of the commissioners, where the commissioners are to be elected by the ratepayers or other like class of electors; with respect to the meetings and other proceedings of the commissioners, and their liabilities; and also with the exception of clauses 84, 86, 87, 92, 93, and 94,) shall, except where expressly varied by this Act, be incorporated with this Act.

10 & 11 Vict. cc. 17. and 26., and 26 & 27 Vict. c. 93. incorporated.

4. "The Waterworks Clauses Act, 1847," (with the exception of the clauses and provisions with respect to the following matters; that is to say, with respect to the construction of the waterworks; with respect to the construction of works for the accommodation of lands adjoining the waterworks; with respect to the communication

pipes to be laid by the undertakers; with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit; and also with the exception of clauses 68, 70, and 72,) and "The Waterworks Clauses Act, 1863," shall, except where expressly varied by this Act, be incorporated with this Act, and applied to the waterworks, lands, hereditaments, rights, easements, credits, and effects to be vested in the commissioners, or in, over, or upon which the commissioners shall have by this Act any power or right.

Same meanings to words in incorporated Acts as in this Act.

5. The several words and expressions to which by the Acts wholly or partially incorporated with this Act meanings are assigned shall in this Act have the same respective meanings, unless there be something in the subject or context repugnant to such construction: Provided always, that in the Acts wholly or partially incorporated with this Act, and also in this Act, the expression "the special Act" shall mean this Act, the expression "the undertakers" shall mean the commissioners hereby incorporated, and the expression "the undertaking" shall mean the undertaking and works to be vested in the commissioners under the provisions of this Act, except where in this Act such a construction would be repugnant to the subject or context.

Interpretation of terms.

6. The following words and expressions in this Act shall have the several meanings hereby assigned to them; (that is to say,)

"Commissioners" shall mean the commissioners incorporated by this Act:

"Provost" shall mean the provost of the royal burgh of Dundee:

"The company" shall mean the Dundee Water Company:

"Lands and heritages" shall have the same meaning as is assigned to that expression in the public Act seventeenth and eighteenth Victoria, chapter ninety-one:

"Persons" shall include companies and corporations:

"Annuity" or "annuities" shall mean the annuities payable under this Act, or any of such annuities:

"Annuitant" or "annuitants" shall mean any person or persons entitled to and holding annuities payable under this Act:

"Sheriff" shall mean the sheriff of the county of Forfar, or any of his substitutes, unless otherwise herein provided for:

"Treasurer" shall mean the treasurer for the time being of the commissioners.

Commissioners.

7. The magistrates and council of the royal burgh of Dundee and their successors in office for the time being, as representing and for and on behalf of the community of the said burgh, shall be the commissioners for carrying into effect the provisions of this Act.

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Incorporation of commissioners.

8. The commissioners shall be called "The Dundee Water Commissioners," and by that name may sue and be sued, and be a body corporate, with perpetual succession and a common seal, with power to take, hold, and dispose of lands and other property for the purposes but subject to the provisions of this Act.

Meetings of commissioners.

9. The commissioners shall hold their first meeting for the execution of this Act within four weeks after the passing of this Act; and the first meeting of the commissioners shall be held within the council chambers of the said burgh wherein the magistrates and town council are in use to meet for their ordinary duties; an annual general meeting of the commissioners shall be held yearly in the month of June or in the first week of July within the council chambers of Dundee, or at such other place as shall be appointed by the commissioners. At all meetings of the commissioners five commissioners shall form a quorum, and the provost or senior magistrate present shall be chairman, or if no magistrate be present the commissioners present shall elect, by a majority of voices, a chairman for the day from among their own number. In case of equality of votes the chairman for the time shall have a casting as well as a deliberative vote. The first meeting of the commissioners shall be called by the provost or acting chief magistrate for the time by a written or printed notice to each member, and all subsequent meetings shall be called by the provost or acting chief magistrate, or in the mode customary for calling the ordinary meetings of the magistrates and council, and shall be held in such place as the commissioners or the provost shall from time to time appoint: Provided always, that the provost or acting chief magistrate shall be bound to call special meetings of the commissioners upon a requisition being presented to him, subscribed by five commissioners, stating the purpose of the meeting; and such purpose shall be set forth in the notice calling such meeting, and shall be intimated by a written or printed notice to each commissioner at least forty-eight hours before such meeting shall be held, and no other business shall be considered at any such special meeting but that which shall be set forth in such notice.

Commissioners may appoint committees.

10. The commissioners may from time to time appoint a committee or committees out of their own number for the execution of any of the purposes of this Act, and from time to time remove any member of committee and appoint another commissioner in his room, and may delegate to any committee such of the powers and authorities of the commissioners as the commissioners think fit; and where such powers and authorities are not specially limited and defined by the commissioners, every committee shall have and may exercise all powers and authorities necessary to enable them to

transact the business committed to them; and the acts and proceedings of the committee within the limits of such delegation shall be deemed the acts and proceedings of the commissioners, and the quorum of such committees shall, unless where otherwise declared, be three; and the commissioners may from time to time make such regulations as they think fit for the guidance of the committees.

Meetings of committees.

11. Every committee so appointed may meet from time to time, and may adjourn from place to place, as they think proper, for carrying into effect the purposes of their appointment; and at all meetings of the committee one of the members present shall, in the absence of the convener, be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and, in case of an equal division of votes, the chairman shall have a casting vote in addition to his vote as a member of the committee.

Acts of commissioners not to be invalidated by reason of vacancies.

12. No proceeding of the commissioners, or of any committee, shall be invalidated or be illegal in consequence only of there being any vacancy or vacancies in the number of commissioners at the time of such proceeding.

Minute of proceedings.

13. The commissioners shall cause entries of all the proceedings of the commissioners, and of every committee appointed by them, with the names of the commissioners who shall attend each meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk, under the superintendence of the commissioners, and every such entry shall be signed by the chairman of the meeting at which the proceedings took place; and such entry so signed, or a copy thereof certified by the clerk, shall be received as evidence in all courts and before all judges, justices, and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been or being commissioners or members of committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the commissioners, or of any mortgagee of the property of the commissioners, or annuitant.

Contract for supply of water not to disqualify commissioners.

14. No person shall be disqualified from being, continuing, or acting as a commissioner by reason of his being concerned in any contract entered into with the commissioners for the supply of water, or of his being a mortgagee of the property of the commissioners, or an annuitant.

Payment of rates not to disqualify any judge.

15. No person liable under this Act in payment of rates or other consideration in respect of water supply shall on that account, or on

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account of being a commissioner, be disqualified from acting as a justice of peace or sheriff, or exercising any judicial function in the carrying out of this Act.

Books and accounts to be kept.

16. The treasurer shall keep separate and distinct books and accounts altogether apart from and unconnected with the other accounts and books of the magistrates and council for other trusts under their administration, it being hereby provided that the common good or corporation estate of the burgh shall not be interested, either for profit or for loss, in the undertaking of the commissioners; and such books and accounts shall contain a full and accurate record of all monies received and paid by the treasurer or the servants of the commissioners under the powers and provisions of this Act.

Accounts to be balanced.

17. The accounts to be kept by the treasurer shall be brought to a balance, as on the fifteenth day of May in each year, for the year immediately preceding, and shall be submitted to a meeting of the commissioners, which shall be called and held within thirty days thereafter; at which meeting the accounts shall be examined, and an abstract statement and account, authenticated by the docquet and subscription of the chairman of the meeting, shall be printed, and a copy thereof delivered to each commissioner six days at least prior to the annual general meeting of the commissioners.

Auditor to be appointed.

18. In the month of May of the year one thousand eight hundred and seventy, and of every year thereafter, the sheriff shall, on the application of the commissioners, or of any three annuitants or ratepayers, appoint for the financial year then current an auditor (being a person well skilled in accounts, and not being one of the commissioners,) to audit and docquet the accounts of the commissioners; and such auditor shall be allowed such reasonable remuneration for his time, trouble, and responsibility as shall be fixed by the sheriff; and in case in any year the office of such auditor shall, before such accounts have been audited by him, become vacant by death, or from any other cause, the sheriff, on the application of the commissioners, or of any three annuitants or ratepayers, shall, from time to time, appoint an auditor to supply such vacancy; and the whole books, accounts, vouchers, and documents of the commissioners shall be laid before the auditor for the purpose of such audit.

Agreement confirmed.

19. Subject to the provisions of this Act, the agreement dated the twenty-first and twenty-fifth days of January one thousand eight hundred and sixty-nine, entered into between the magistrates and town council of Dundee of the first part, and the company of the second part, set forth in schedule (A.) to this Act, is hereby ratified and confirmed; it being hereby declared that the sum of

eighty thousand pounds sterling, which the commissioners under this Act are authorized to borrow, shall be deemed the whole amount of the sums referred to in the fourth head of the said agreement as to be borrowed.

Commissioners to discharge mortgage debts of company, and undertaking of company to vest in commissioners.

20. On or before the eleventh day of November one thousand eight hundred and sixty-nine the commissioners shall pay off and relieve the company from liability for payment of the mortgage and bond debts of the company, and shall deliver to the company or place upon record discharges of such mortgage and bond debts to the satisfaction of the sheriff, or in case of any obstacle existing or arising to prevent any of the said debts from being so paid, and discharges thereof obtained, consignation of the amount of such debts in any of the chartered banks in Scotland, at the sight and to the satisfaction of the said sheriff, so as to secure the payment thereof, shall have the same effect as the delivery or recording of discharges therefor; and the sheriff, when satisfied that the whole of the mortgage and bond debts of the company have been paid and discharged, or secured by consignation as aforesaid, shall, on the application of the commissioners, grant a certificate to that effect, and upon such certificate being granted the undertaking of the company and their whole rights, powers, and privileges, lands, buildings, streams, water, rights to water, reservoirs, works, pipes, stores, machinery, and other property or estate, real and personal, shall vest and become vested in and transferred to the commissioners, subject to and under burden of payment of the annuities after mentioned, and the burdens, debts, and obligations of the company other than those attaching to revenue as after specified: Provided always, that from the transfer made by this Act of the said undertaking there is hereby excepted the reserved fund and all revenue balances and monies of the company attributable to revenue, whether the same be lying in the hands of their bankers or elsewhere, and also all sums owing by or chargeable against consumers or others for water supplied prior to the twenty-third day of November one thousand eight hundred and sixty-nine, and other ordinary income of the company arising prior to that date, all which shall belong to and be retained by the company, it being hereby provided, notwithstanding anything in this Act contained, that the company shall be entitled to charge the consumers for all water supplied by the commissioners from the eleventh to the twenty-third day of November one thousand eight hundred and sixty-nine, and that at the same rates as they are now charged for similar supplies of water by the company, and to levy and recover such rates from the consumers: Provided also, that, within six months after the date of the said certificate, the commissioners shall produce to the Commissioners of Inland Revenue a copy of this Act printed by Her Majesty's

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printers, and duly stamped with an ad valorem stamp duty of the same amount as would have been payable in respect of a conveyance of the said undertaking for the consideration by this Act provided. And if the commissioners shall not, within the said period of six months, produce to the Commissioners of Inland Revenue such copy of this Act duly stamped as aforesaid the said ad valorem stamp duty shall be recoverable from the commissioners, with full costs of suit and all costs and charges attending the same.

Company to pay debts affecting revenue.

21. The company shall pay all debts due by them as on the eleventh day of November one thousand eight hundred and sixty-nine for materials purchased and delivered, and for repairs or furnishings made and work done; also all wages to servants and all other ordinary debts attaching to revenue at and prior to that date: Provided always, that if the company shall fail or neglect to pay the said debts previous to the fifteenth of May one thousand eight hundred and seventy, then the same shall be exigible from the commissioners, who shall have relief against the company for any such debts paid by the commissioners: Provided further, that the commissioners shall pay (or, if already paid by the company, shall repay to them) one half of the income tax, poor rates, police assessment, and other annual burdens paid by or exigible from the company or the shareholders thereof for the year from the term of Whitsunday one thousand eight hundred and sixty-nine to the term of Whitsunday one thousand eight hundred and seventy, the commissioners having right to deduct from the annuities to be paid by them, at the term of Whitsunday one thousand eight hundred and seventy, the income tax applicable thereto: Provided also, that the company shall pay to the commissioners the sum of two thousand one hundred pounds out of the reserved fund, and also the sum of five hundred and fifty pounds, in consideration of the revenue which shall be drawn by the company as aforesaid for the period between the eleventh and twenty-third days of November one thousand eight hundred and sixty-nine, the commissioners supplying water to all consumers during the said period free of additional charge.

Act equivalent to general conveyance.

22. After the mortgage and bond debts of the company shall have been paid and discharged or consigned, and a certificate to that effect shall have been granted by the sheriff in manner herein provided, this Act shall, as respects the lands and heritages to become vested in the commissioners as aforesaid, be equivalent to a general conveyance thereof by the company according to the law of Scotland; and thereupon, in order to the completion of a feudal title to the said lands and heritages in the commissioners, it shall be lawful for the commissioners to expede a notarial instrument or notarial instruments, which shall specially set forth this Act and the

said certificate, and to record such notarial instrument or notarial instruments in the manner and to the effect prescribed by "The Titles to Land Consolidation (Scotland) Act, 1868," with reference to lands conveyed by general disposition or conveyance, and such notarial instrument or notarial instruments shall contain provisions constituting the annuities real and preferable burdens upon the lands and heritages foresaid.

Reserving provisions of existing Acts for protection of the estate of Panmure.

23. The provisions contained in sections 36 to 38 inclusive of "The Dundee Waterworks Act, 1845," except in so far as the same are altered or repealed by "The Dundee Waterworks (Extension) Act, 1853," and the provisions contained in sections 17 to 28 inclusive of "The Dundee Waterworks (Extension) Act, 1853," except in so far as the same are altered or repealed by "The Dundee Waterworks (Extension) Act, 1866," and the provisions contained in sections 6 to 12 inclusive of "The Dundee Waterworks (Extension) Act, 1866," shall, notwithstanding the passing of this Act, and except in so far as any of such provisions may have been already fulfilled or discharged, remain in full force and effect, and be read and construed as if the name of the commissioners had been used therein instead of the name of the company; and all the powers, rights, privileges, and obligations thereby conferred and imposed on the proprietor of the estate of Panmure for the time being, and those having right from him, and on the company respectively, may, except as aforesaid, be exercised, enjoyed, and enforced by such proprietor and those having right from him and by the commissioners respectively: Provided also, that it shall be lawful to the proprietor of the estate of Panmure for the time being to enforce each and all of the said provisions in the said statutes, or any one or more of them, against any person or persons, and to prevent any person or persons from fishing in any reservoir or reservoirs, basin or basins, fishing in which is prohibited or not allowed by said statutes: Provided further, that it shall be incumbent on the commissioners always to have and maintain sufficient hakes or gratings and sluices at the different outlets of the reservoirs and basins mentioned in the recited Acts, and in which the proprietor of the estate of Panmure has the exclusive right of fishing, so as to prevent the fish from getting down therefrom: And provided further, that, in the exercise of the rights of the recited Acts and this Act conferred on the commissioners with respect to the reservoirs referred to in the said provisions, the commissioners shall as little as possible injure the fishings or game in or upon the said reservoirs and the islands therein, or interfere with the exercise of the exclusive right of fishing, shooting, and sporting in and over the said reservoirs and islands which by the said provisions is reserved to the

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proprietor of the said estate for the time being and those having right from him; and in the event of any difference as to the above-mentioned provisions, or as to such injury or interference, the same shall be determined by the sheriff, and his determination shall be final.

Annuities to be paid to shareholders of company.

24. The commissioners shall pay for the undertaking of the company the following perpetual annuities; that is to say, in respect of the share capital created under the authority of the Acts 8 & 9 Victoria, chapter 137, and 29 & 30 Victoria, chapter 133, the commissioners shall pay perpetual annuities amounting in the aggregate to eleven thousand pounds per annum, and each person entitled on the eleventh day of November one thousand eight hundred and sixty-nine to any share or shares of the capital created under those Acts shall be entitled to a proportion of the said aggregate amount of annuities of eleven thousand pounds corresponding to the proportion which the share or shares to which he is so entitled shall bear to the whole of the share capital so created; and in respect of the share capital created under the authority of the Acts 16 Victoria, chapter 50, and 25 Victoria, chapter 43, the commissioners shall pay perpetual annuities amounting in the aggregate to three thousand three hundred and fifteen pounds per annum; and each person entitled on the eleventh day of November one thousand eight hundred and sixty-nine to any share or shares of the capital created under those Acts shall be entitled to a proportion of the said aggregate amount of annuities of three thousand three hundred and fifteen pounds corresponding to the proportion which the share or shares to which he is so entitled shall bear to the whole of the share capital so created; and all such perpetual annuities shall be payable in every year, from and after the eleventh day of November one thousand eight hundred and sixty-nine, to the persons entitled to the same, in two equal half-yearly portions, payable respectively on the fifteenth day of May and the eleventh day of November of each year, the first of such half-yearly portions being payable on the fifteenth day of May one thousand eight hundred and seventy: Provided that if any such half-yearly day of payment shall be a Sunday such half-yearly payment shall be made on the following day.

Annuities to vest in shareholders of company.

25. The said annuities shall be called "The Dundee Water Annuities," and shall vest in and belong to the several persons who, on the eleventh day of November one thousand eight hundred and sixty-nine, shall be shareholders in the Company according to their respective rights and interests in the share capital of the Company as herein-before provided, and shall be subject to the following provisions, viz.:

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Annuities to represent shares in company.

(*a.*) The said annuities shall in all respects be substituted for and represent the shares in the capital of the company in respect of which they are respectively granted, and the several persons in whom any annuities become vested under this Act shall be possessed thereof respectively upon the same trusts and subject to the same powers, provisions, charges, and liabilities as those upon and subject to which the respective shares in the capital of the company for which such annuities are respectively substituted are held on the date at which the said annuities become so vested as aforesaid; and the said annuities shall be held as conveyed or affected by any deed, will, or other instrument disposing of or affecting such shares, as if such annuities were mentioned therein instead of such shares.

Annuity certificates to be granted.

(*b.*) The commissioners shall, at their own expense, grant and issue to every shareholder of the company, or to his executors, administrators, or assignees, on delivery to the commissioners of a certificate, or on production of other evidence of the share or stock or interest held by him in the capital of the company, annuity certificates in the form of the schedule (B.) to this Act for the amount of the annuities to which such shareholder shall be entitled under the provisions of this Act; and such certificates shall be so many, and each of them for such amount of annuity, as the person entitled thereto shall, by notice in writing to the commissioners, require, amounting in the aggregate to the whole amount of annuities to which he is entitled; and if such person shall not require any particular number of certificates to be issued to him, then the commissioners shall issue to such person such number of certificates as they shall think fit.

Certificates to be numbered and renewed.

(*c.*) The said annuity certificates shall be numbered in arithmetical progression, beginning with number one, and every annuity certificate shall be distinguished by its appropriate number; and the said certificates shall be renewed by the commissioners when lost, worn out, or damaged, on production to them, or their clerk or treasurer, of evidence of the right of the annuitant requiring such renewal; and if in any case the commissioners shall not be satisfied with the evidence offered by any annuitant he may appeal to the sheriff, who shall decide summarily what evidence is requisite, and the sheriff's decision shall be final; and for every such renewed certificate the commissioners

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may demand any sum not exceeding two shillings and sixpence.

Certificates may be exchanged for others.

(*d.*) If at any time an annuitant be desirous of having several certificates instead of one, or one certificate instead of several, for his annuities, or any of them, then, on any such certificate or certificates being produced to the commissioners, they shall order the same to be cancelled, and shall thereupon issue to him, as he may require, one or more certificate or certificates for his annuities, the certificate or certificates for which is or are so cancelled; and in every such case a proper entry of the substituted certificate or certificates shall be made by the commissioners in the register of transfers of the Dundee Water Annuities herein-after mentioned; and for every such substituted certificate the commissioners may demand any sum not exceeding one shilling: Provided that, in every such case, the amount or the aggregate amount of the annuities for which the substituted certificate or certificates is or are issued shall be the same as the amount or the aggregate amount of the annuities the certificate or certificates for which is or are so cancelled.

Register of annuities.

(*e.*) The commissioners shall keep a book called "The Register of Dundee Water Annuities," and shall enter therein from time to time, in alphabetical order, the names and designations of the several annuitants respectively entitled to the annuities, and the respective amounts of their annuities; and every annuitant may at all convenient times inspect such book gratis, and may require a copy thereof, or of any part thereof; and for every two hundred and fifty words or any less number of words which he may require to be copied the commissioners may demand any sum not exceeding one shilling.

Annuities personal estate.

(*f.*) The annuities shall be moveable or personal estate, and transmissible as such, and shall not be of the nature of heritable or real estate.

Annuities may be transferred.

(*g.*) Every annuitant may sell or transfer all or any of his annuities, and every such transfer shall be by deed duly stamped, in which the consideration shall be truly stated, and such deed may be in the form of the schedule (C.) to this Act, or to the like effect.

Transfer of annuities to be registered.

(*h.*) Every such transfer, when duly executed, shall be delivered to the commissioners, and be kept by them; and they shall keep a book called "The Register of Transfers of the Dundee Water Annuities," and shall enter every such

transfer therein, and shall endorse such entry on the transfer (such endorsement to be signed by the treasurer), and shall, on demand, deliver a new certificate to the transferee; and for every such entry of a transfer, with such endorsement and certificate, the commissioners may demand any sum not exceeding two shillings and sixpence; and, on the request of any transferee an endorsement of the transfer to him shall be made on the certificate transferred, instead of a new certificate being granted; and such endorsement, being signed by the treasurer, shall be considered in every respect the same as a new certificate, and until such transfer be so delivered to the commissioners the transferee shall not be entitled to receive any part of the annuities transferred.

Closing of transfer books.

(*i.*) The commissioners may close the register of transfers of annuities for any period not exceeding fourteen days before the fifteenth day of May and eleventh day of November in each year, and any transfer made during the time when such register is closed shall, as between the commissioners and the transferee, but not otherwise, be held as made after that time.

Transmission of annuities by other means than transfer to be authenticated by a declaration.

(*k.*) If the right to any annuity becomes transmitted in consequence of the death, or bankruptcy, or insolvency of any annuitant, or in consequence of the marriage of a female annuitant, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration in writing as herein provided; and until the transmission be so authenticated no person claiming by virtue thereof shall be entitled to receive any part of the annuity so transmitted.

Contents of declaration in all cases.

(*l.*) Every such declaration shall state the manner in which and the party to whom the annuity is transmitted, and shall be made and signed by some credible person before a justice of the peace of any county or city, or any sheriff or his substitute, and such declaration shall be left with the commissioners, and thereupon they shall enter the name of the person entitled under such transmission in the register of annuities; and for every such entry the commissioners may demand any sum not exceeding one shilling.

Contents of declaration in cases of transmission by marriage or will.

(*m.*) If the transmission be by virtue of the marriage of a female annuitant the declaration shall contain a copy of the register of such marriage, or other particulars of the celebration or effecting thereof, and shall declare the identity

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of the wife with the holder of the annuity; and if the transmission be by virtue of any will or testamentary instrument, or by intestacy, the confirmation or testament testamentar, or testament dative, or the probate or letters of administration, or an official copy or extract thereof, shall, with the declaration, be produced to the treasurer; and upon such production, in either of those cases, the treasurer shall make an entry of the declaration in the register of transfers of annuities.

Commissioners not bound to regard trusts.

(*n*.) The commissioners shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any annuity may be subject; and the receipt of the person in whose name any annuity stands in the register of annuities shall, from time to time, be a sufficient discharge to the commissioners for any money payable in respect of such annuity, notwithstanding any trust to which the same may then be subject, and whether or not the commissioners have had notice of such trust; and the commissioners shall not be bound to see to the application of the money paid upon such receipt.

Payment of annuities.

(*o*.) The annuities shall be paid at the office of the treasurer in the burgh of Dundee in net money, clear of all deductions whatsoever (except income or property tax or other tax in the nature thereof legally chargeable thereon).

Power to redeem annuities by agreement.

(*p*.) The commissioners may from time to time, by agreement with any annuitant, purchase up or redeem all or any of his annuities at a rate not higher than the market price at the time; and when any annuity is so redeemed an entry of the redemption thereof shall be made in the Register of Dundee Water Annuities, and thereupon the redeemed annuity shall be wholly extinguished.

Annuities recoverable by suit.

(*q*.) If any annuity, or any part of an annuity being payable, be not paid on demand thereof in writing made by any annuitant or his agent to the commissioners, the annuitant may sue for and recover the same from the commissioners, with interest at the rate of five pounds per centum per annum till paid, and full costs of suit in any court of competent jurisdiction.

Annuitants to be preferential creditors for annuities.

(*r*.) The annuitants shall be creditors of the commissioners for payment of the annuities respectively herein-before directed to be paid to them, and of the interest thereon, and expenses incident thereto, and the said annuities, and the interest on the monies borrowed under the authority of this Act, and the annuity payable to the holders of the

Trustees, &c. may take rentcharge stock in substitution for shares, stock, or mortgages.

18. Any company and any trustees, guardians of infants, husbands, committees of lunatics, and others, being respectively in such capacities entitled to, or to the control of, any of the said shares, stocks, annuities, or rentcharges respectively, may accept South Devon five per cent. preference stock, South Devon debenture stock, or South Devon rentcharge stock, as the case may be, in substitution for such shares, stocks, annuities, or rentcharges.

Saving priorities of existing preference shareholders.

19. Notwithstanding anything in this Act contained, all rights of preference and priority attached to any of the various classes of preference shares, debenture stock, mortgages, guaranteed debentures, annuities, and rentcharges herein-before mentioned and existing at the time of the passing of this Act, and all provisions and enactments in any of the existing Acts relating thereto, shall not in any respect be altered, prejudiced, or affected, but the holders of such preference shares, debenture stock, mortgages, guaranteed debentures, annuities, and rentcharges shall have all such and the same rights of preference and priority in every respect as they would have had if this Act had not been passed; but, nevertheless, this provision shall not be held to abrogate the powers by this Act conferred upon the company of varying those rights of preference and priority, with the consent of the respective holders of the said preference shares, debenture stock, mortgages, guaranteed debentures, annuities, and rentcharges.

Power to create and issue consolidated ordinary stock, or 5 per cent. preference stock, in substitution for shares in Launceston and South Devon Railway.

20. And whereas the company were empowered by the Act of 1866 to purchase and hold any shares which they thought fit in the capital of the Launceston and South Devon Railway Company (herein-after referred to as "the Launceston Company"), and it is expedient that they should also be empowered to issue in exchange for such shares stock of the company as herein-after mentioned: Therefore the company may from time to time issue to any holder of shares in the Launceston Company such an amount of consolidated ordinary stock of the company, or of South Devon five per cent. preference stock, as such holder may agree to accept in lieu of and in exchange for his shares; and the company may from time to time, in addition to their present consolidated ordinary stock and to the South Devon five per cent. preference stock by this Act authorized to be created as before mentioned, create and issue such a further amount of consolidated ordinary stock and of South Devon five per cent. preference stock respectively as may be necessary for that purpose, and the South Devon five per cent. preference stock created by virtue of this present enactment shall rank pari passu and form one stock with the other South Devon five per cent. preference stock by this Act authorized to be created: Provided

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that the amount of capital to be raised or created by the company for the purpose of acquiring shares in the Launceston Company, under the authority of the Act of 1866 and of this Act, shall not exceed in the aggregate the amount of the capital of that company.

New stocks to be subject to the same trusts, &c. as the shares, &c. in substitution for which they are issued.

21. The several stocks to be created and issued under the authority of this Act shall respectively be subject to the same trusts, estates, interests, rights, powers, authorities, and liabilities in all respects as the shares, stocks, mortgages, debentures, annuities, or rentcharges respectively for which the same shall respectively be substituted were subject and liable to, and so as not to revoke any testamentary disposition affecting such shares, annuities, or rentcharges respectively.

Saving rights of South Devon 5 per cent. preference stock created for the purpose of amalgamation of the Launceston Company with the company.

22. And whereas negotiations are pending for an amalgamation of the Launceston Company with the company, and it is desirable that, in the event of an agreement for such amalgamation being sanctioned by Parliament, the company should have power to convert the shares of the Launceston Company into consolidated ordinary stock or into preference shares or stock of the company: Therefore the South Devon five per cent. preference stock by this Act authorized to be created and issued shall be created and issued subject and without prejudice to the creation and issue by the company of such additional stock, ranking pari passu therewith and being of the same denomination and bearing the same rate of interest, as they may, by any other Act of Parliament passed in the present or any future session, be authorized to create and issue for the purpose of completing and carrying into effect an amalgamation of the Launceston Company with the company in accordance with the provisions of any such last-mentioned Act.

Saving rights of debenture stock created for the purposes of amalgamation of the Dartmouth Company and the Launceston Company with the company.

23. And whereas under the provisions for the amalgamation of the Dartmouth Company with the company which are contained in the Act of 1866, and by the arrangements which are proposed for an amalgamation of the Launceston Company with the company as mentioned in the last preceding section, the company will assume and become liable for the mortgage and debenture debts of the Dartmouth Company and of the Launceston Company respectively; and it is desirable that the company should be empowered to issue debenture stock in substitution for or in discharge of the said mortgage and debenture debts: Therefore the debenture stock by this Act authorized to be created and issued shall be created and issued subject and without prejudice to the creation and issue by the company of such further amounts of debenture stock, ranking pari passu therewith and being of the same denomination and bearing

funded debt, which may be issued in respect of the monies authorized to be borrowed by this Act, are hereby constituted primary and preferential burdens and liens on the undertaking of the commissioners, and on any other works and property from time to time vested in or belonging to, or to be constructed by, the commissioners, and the rates, charges, and assessments leviable by, and the other revenue of, the commissioners.

Debts and liabilities of company to be discharged by the commissioners.

26. On and after the eleventh day of November one thousand eight hundred and sixty-nine, all mortgages, bonds, securities for money, conveyances, contracts, agreements, and obligations previously granted, made, or entered into by the company, under or by virtue of the company's recited Acts, in favour of or with any person or persons whomsoever, in relation to the undertaking of the company, and all liabilities arising out of the same, or contained in or arising out of the said recited Acts relating thereto, and all debts owing by the company, except debts against revenue incurred prior to the last-mentioned date, shall be enforceable against and recoverable from the commissioners, and shall be chargeable and charged upon the said undertaking to be vested in the commissioners by virtue of this Act and upon the monies to be received by the commissioners under this Act, and shall remain in full force and effect against the commissioners, and be and continue valid in law, and available in all courts of law and equity, while the same are unperformed and unsatisfied.

Actions not to abate.

27. No action, suit, prosecution, or other proceeding whatsoever, commenced either by or against the company previous to such transference, in relation to the undertaking of the company to be vested in the commissioners as aforesaid, shall abate or be discontinued, or be prejudicially affected thereby, but all such actions, suits, prosecutions, and other proceedings shall continue and take effect, either in favour of or against the commissioners, in such and the like manner as the same would have continued and taken effect in relation to the company if such transference had not been made; and all penalties by reason of any offence against the provisions of the recited Acts relating to the company previous to such transference may be sued for, and all offences which may have been committed before such transference against the provisions of such Acts or any of them may be prosecuted in such or the like manner, to all intents and purposes, as the same might have been sued for and prosecuted respectively if such transference had not been made.

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Proceedings under recited Acts saved.

28. Immediately upon the undertaking and others foresaid of the company becoming vested in the commissioners under the provisions of this Act, everything before that time done or suffered under the recited Acts in relation to the undertaking of the company shall be as valid as if the same had not been transferred to the commissioners; and such transfer shall accordingly be subject and without prejudice to anything so done or suffered, and to all rights, liabilities, claims, and demands which, if the said transfer had not been made, would be incident to or consequent on any and everything done or suffered under the said Acts or any of them; and with respect to all such rights, liabilities, claims, and demands the commissioners shall, to all intents and purposes, represent the company.

Commissioners to pay annual burdens affecting undertaking.

29. All annual or other periodical payments or burdens that may be payable for or leviable from the works and property to be vested in the commissioners under the provisions of this Act for the time from and after the date when, under the provisions of this Act, the said works and property shall vest in the commissioners shall be paid by them.

Company to cease to supply water.

30. From and after the date when the commissioners shall become vested in the undertaking of the company under the provisions of this Act the company shall cease to supply water under the recited Acts.

Purposes for which company to continue incorporated.

31. From and after the date of the certificate to be granted by the sheriff in manner herein-before provided the company shall subsist only for the purpose of securing the annuity certificates being granted to the respective shareholders of the company for their respective annuities, as herein-before provided; of retaining and dividing among the shareholders the amount of the reserved fund, as appearing in the books of the company on the eleventh day of November one thousand eight hundred and sixty-nine; and of recovering and enforcing payment of any rates, rents, charges, penalties, and other revenues due or owing to the company previous to the twenty-third day of November one thousand eight hundred and sixty-nine, and of paying all debts attaching to revenue which may be due by the company, and of distributing their funds among their shareholders in proportion to the amount of shares held by them respectively, after deducting such debts and all necessary expenses, and the making payment to the commissioners of the sum of two thousand one hundred pounds out of the reserved fund, and of the sum of five hundred and fifty pounds before mentioned, and of obtaining from the commissioners discharges of the mortgage and other debts and obligations due by the company, which,

under the provisions of this Act, are to be paid by the commissioners, and of winding up the affairs of the company and carrying into effect the purposes of this Act, so far as relating to the company; and the directors of the company who are in office at the date of the certificate to be granted by the sheriff in manner herein-before provided, and the survivors and survivor of them, shall continue, without re-election, to hold the office of directors of the company, and shall have full power and authority to take all necessary proceedings for carrying into effect the several purposes herein-before mentioned.

Dissolution of company.

32. Upon the purposes before specified for which the company is to subsist, as herein-before provided, being fulfilled, the directors of the company may grant a certificate to that effect under their common seal, which certificate shall be published once in the "Edinburgh Gazette," and thereupon the company shall, ipso facto, be dissolved; and the several Acts herein-before recited which relate thereto shall, subject to the provisions of this Act, be repealed so far as regards the company.

Limits of Act.

33. The limits of this Act shall commence on the east at the Frith of Tay, at a point one thousand yards eastward from the eastmost point of the water of Dighty, and running thence in a straight line to a bench mark of the Ordnance Survey indicating altitude 142·8, situated on the Dundee and Arbroath turnpike road, between the fifth and sixth milestones from Dundee; and thence in a straight line to another bench mark indicating altitude 230·8, situated on the Dundee and Forfar turnpike road, between the second and third milestones from Dundee; thence in a straight line to a crest of the Ordnance Survey indicating altitude 527·4, situated on Gallowhill, on the estate of Strathmartine; thence in a straight line to a surface mark of the Ordnance Survey indicating altitude 554·5, situated near the farm of West Adamston, and at a point eight hundred and fifty yards or thereby north from the Burn of Dighty, where the said burn adjoins the counties of Perth and Forfar; thence southward in a straight line to a point on the Burn of Dighty, where said burn ceases to be the boundary between the counties of Forfar and Perth and enters wholly into the county of Forfar; thence southward along the boundary of the county of Forfar to the public road running from north to south past the graveyard of Benvie; thence along that road to its junction with the county of Perth; and thence following the boundary of the county of Forfar to and terminating at the Frith of Tay, the said frith being the southern boundary.

Limits for compulsory supply.

34. The limits of this Act for the compulsory supply of water by the commissioners shall commence on the east at the Frith of

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Tay, at a point eight hundred yards eastward from the south-east point of the burgh of Broughty Ferry, as the boundaries of that burgh were fixed in pursuance of the Act twenty-five and twenty-six Victoria, chapter one hundred and one, running thence in a straight line to the junction of the road leading eastward from Barnhill Steading with the Barnhill road, the said junction being eight hundred yards or thereby distant from the north-east point, near Gowrie Cottage, of said burgh; thence in a straight line to the junction near Claypots Castle of the Claypots road with the Dundee and Arbroath turnpike road; thence in a straight line to a point on the road from American Muir to King's Cross, said point being two hundred and fifty yards due north from the parliamentary burgh of Dundee, as fixed under the public Act second and third King William Fourth, chapter sixty-five, intituled "An Act to "amend the Representation of the People in Scotland;" thence in a straight line to a point on the road between Lochee and the Kirkton of Liff, eight hundred yards west from the north-west corner of the last-mentioned burgh; and thence southward in a straight line to the Frith of Tay, at a point eight hundred yards distant from the western boundary of that burgh; the boundary on the south being said frith.

Supply of water for domestic use within limits for compulsory supply.

35. From and after the date when the commissioners shall enter into possession of the company's undertaking and others foresaid, the commissioners shall, at the request of the owner or occupier of any house, or part of a house occupied as a separate dwelling, situate within the limits for compulsory supply, furnish to such person within such dwelling house, by means of communication pipes and other necessary and proper apparatus to be provided, laid down, and maintained at the cost of such person, a sufficient supply of water for domestic purposes, including a supply for any coach-house and stable used along with such house, not being for carriages or horses kept for hire, and also including a supply for any private watercloset or closets and fixed bath or baths in such dwelling house: Provided always, that no person shall be entitled to require the commissioners to furnish to him a supply of water unless some pipe of the commissioners shall have been laid within fifty feet of the outer wall, fence, or boundary of the subjects or premises in respect of which such supply is demanded, or, in the case of tenements situated in a private close or place, unless some pipe of the commissioners shall have been laid within fifty feet of the entrance to such close or place; or unless the commissioners shall have become bound by virtue of a requisition and agreement made and executed in the manner and to the extent required by "The Waterworks Clauses Act, 1847," to cause pipes to be laid down within

the said distance of fifty feet of such subjects or premises, or such entrance as aforesaid, the domestic water rate herein provided for being held for the purposes of the said requisition and agreement to be the rate specified in the special Act: Provided further, that where any houses within the limits for compulsory supply have been or may be erected on high levels the commissioners shall not be bound to supply water to such houses constantly or under pressure, nor at a greater height than can be done by gravitation by means of their distributing reservoirs.

Supply of water for domestic purposes beyond limits for compulsory supply.

36. From and after the date foresaid the commissioners shall cause pipes to be laid down and water for domestic purposes to be brought to every part of the places and districts within the limits of this Act, beyond the limits for compulsory supply, whenever they shall be required by so many owners or occupiers of houses in such part of the district beyond the limits for compulsory supply as that the aggregate amount of water rates payable by them annually, at such rates as may be fixed by the commissioners as herein-after provided, shall not be less than one tenth part of the expense of providing and laying down such pipes: Provided always, that no such requisition shall be binding on the commissioners, unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for ten successive years at least: Provided always, that the water to be supplied by the commissioners under the provisions of this section need not be laid on constantly or under pressure: Provided also, that it shall be lawful for the commissioners to agree with any owner or occupier, who is not entitled to demand a supply of water, for such a supply for domestic purposes, to be made at any place within the limits of this Act.

Commissioners may supply water for other than domestic purposes.

37. The commissioners may furnish to any person within the limits of this Act a supply of water for steam engines or railway purposes, or for shipping, or for warming or ventilating any dwelling house or other premises, or for working any machine or apparatus, or for cattle, or for horses, or washing carriages, when such horses or carriages are kept for hire or are the property of a dealer, or for gardens, fountains, or ornamental purposes, or for flushing sewers or drains, or for any trade, manufacture, or business, whether carried on in any dwelling house or in other premises, or for hotels, or taverns, or poor-houses, or hospitals, or prisons, or barracks, or other public buildings, or for any other purpose not domestic, such respective supplies being so furnished at such rates, upon such terms and conditions, and by measure or otherwise, as shall be agreed upon between the commissioners and the person desiring the same: Provided always, that as far as possible the rate for such supply of

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water shall be uniform to all persons in the same circumstances, and requiring the same extent of supply: Provided also, that the supply for domestic purposes by this Act required shall be and continue to be sufficiently provided before the commissioners supply water for any other purpose.

Provisions as to public wells, fountains, and standpipes.

38. The commissioners shall and they are hereby required to cause all the existing public wells within the ancient burgh of Dundee used for the gratuitous supply of water to the inhabitants to be continued and upheld and sufficiently supplied with water; or if they find it expedient for the public interest to discontinue all or any of these wells, then to put up and maintain in convenient situations within the said ancient burgh at least as many wells or public fountains or standpipes as they shall discontinue.

Cisterns, &c. to be constructed to prevent waste and impurity.

39. Every cistern or other receptacle for water, and every water-closet, soilpan, and private or public bath, or well or fountain, or place which shall be supplied with water by the commissioners, or which they shall be called on to supply with water, shall be so constructed and used as effectually to prevent the waste, misuse, or undue consumption of water and the flow or return of foul air or other noxious or impure matter into the mains or pipes of the commissioners, or into any pipes connected or communicating therewith; and notwithstanding anything in "The Waterworks Clauses Act, 1847," or in the recited Acts, or any of them, or in this Act contained, the commissioners shall not be bound to supply water into any cistern or other receptacle, watercloset, soilpan, or private or public bath, or well or fountain, or place which shall not be so constructed and used.

Pipes, &c. to be kept in repair.

40. If any pipe, valve, cock, bath, soilpan, cistern, or any other apparatus used for conveying water supplied by the commissioners to the houses of the inhabitants or to manufactories or other places, or for storing it therein, shall be out of order, the owner or other person using any such apparatus not belonging to the commissioners shall be bound to repair and make good the same on receiving a written or printed requisition, signed by the manager or other authorized officer or servant of the commissioners (which may be left at the premises supplied with water), so to do; and if such owner or other person fail to make the requisite repairs within two days after such requisition it shall be in the power of the commissioners, by their manager, to alter, repair, renew, and make good and water-tight all such apparatus; and the commissioners shall be entitled to recover from the owner or other person so failing the cost of such repair, alteration, or renewal, together with the penalty contained in "The Waterworks Clauses Acts, 1847 and 1863," for

wilful waste of water, or for suffering such apparatus to be out of repair, by summary application to the sheriff, in the same manner as is herein provided with respect to the recovery of rates for supplies of water for purposes not domestic.

Penalty for interference with commissioners valves, &c.

41. Every person who shall wilfully, carelessly, or without due authority from the commissioners, in any way injuriously interfere with any valve, pipe, lock, cock, or other apparatus or works of the commissioners, or with any meter used for registering the quantity of water supplied by the commissioners, shall, without prejudice to any other right or remedy competent to the commissioners for the punishment of such offender, be liable to a penalty for every such offence not exceeding five pounds.

Apparatus to be approved by the manager of the commissioners.

42. All the apparatus used or to be used for conveying and supplying water to the houses of the inhabitants and manufactories, or other premises supplied or to be supplied with water under the provisions of this Act, shall be subject to the approval of the manager to the commissioners; and in case of dispute between the parties providing such apparatus and the manager such dispute shall be determined by the commissioners, whose decision shall be final.

Byelaws with respect to supply of water.

43. It shall be lawful for the commissioners to make byelaws for regulating all or any matters and things whatsoever connected with the supply of water, and for the prevention of waste, misuse, or undue consumption of water within the limits of this Act, and among other things may prescribe the size, nature, make, strength, and arrangement of the pipes, cocks, cisterns, and other apparatus used for the purposes of the supply, and hours for inspection thereof by the officers or servants of the commissioners, and to impose such penalties for breaches of such byelaws, not exceeding five pounds for each offence, as may be considered expedient; and from time to time, as they shall think fit, to repeal, alter, or re-enact any such byelaws: Provided that such byelaws shall not be repugnant to the law of Scotland, and, before being acted on, shall be signed by at least a quorum of the commissioners, and approved of and confirmed by the sheriff, and inserted weekly, for at least two weeks, in any two newspapers published in Dundee; and all byelaws so made, signed, confirmed, and published shall be observed by and binding on all persons concerned therein: Provided also, that such byelaws shall be so framed as to allow the judge before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid if such judge shall think fit.

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Commissioners to estimate annual sums required.

44. The commissioners shall be bound, and they are hereby authorized and required, once in every year to estimate and fix the amount of money necessary to be levied for the purpose of defraying the costs, charges, and expenses of supplying water for and during the year then current, and the annuities, and the interest of any money borrowed under the provisions of this Act, and the payment to the sinking fund, together with the expense of maintaining and managing the works, and obtaining and providing and distributing supplies of water within the limits of this Act, and such salaries, wages, and other expenses of any managers, treasurers, engineers, surveyors, clerks, collectors, or other officers or servants employed by them, and such portion of the expense of extending the mains and pipes from time to time as the commissioners shall think equitable and fair to charge to such account, and all other charges and expenses chargeable against revenue.

Estimate to be considered and domestic water rate imposed.

45. The estimate to be made up as aforesaid shall be printed and circulated among the commissioners, and at the annual general meeting of the commissioners shall be considered, and at that meeting, or at a special meeting called for the purpose, or some adjournment of any such meeting, it shall be lawful for the commissioners, and they are hereby authorized and required, once in every year, in order to raise such a sum of money as along with the public water rate after mentioned and other revenue of the commissioners shall be sufficient for the purposes aforesaid, to assess and levy a rate, to be called "The Domestic Water Rate," upon and from the occupiers of all dwelling houses, and of such parts of all shops and buildings as may be used as dwelling houses within the limits for compulsory supply, according to the real rent or full annual value of such dwelling houses and of such parts of shops and buildings used as dwelling houses, and of any offices, gardens, or land belonging thereto or occupied therewith respectively: Provided always, as regards all persons who shall be the occupiers of any such subjects or premises (other than tenements situate in a private close or place), that they shall not be liable to be assessed in respect thereof for the said domestic water rate unless some pipe of the commissioners shall be laid down within fifty feet of the outer wall, fence, or boundary of the same: Provided further, as regards the occupiers of tenements situate in a private close or place, that they shall not be liable to be assessed in respect of such tenements for the said rate unless some pipe of the commissioners shall be laid down within fifty feet of the entrance to such close or place: Provided also, that no occupier the under storey of whose dwelling house is situate at a higher level than that at which the commissioners can supply water thereto by means of their distri-

buting reservoirs shall be liable to said rate in respect of such dwelling house and property belonging thereto or occupied therewith.

Public water rate to be levied.

46. It shall be lawful for the commissioners, and they are hereby authorized and required, once in every year to assess and levy upon and from the owners of all lands and heritages within the limits of compulsory supply a rate, to be called "The Public Water Rate," of one penny in the pound of the real rent or full annual value of all such lands and heritages, but no public water rate shall be assessed or levied on or from any railway company for or in respect of the line of railway belonging to such company, but such rate shall be assessed and levied on and from such company in respect of all stations, depôts, and buildings belonging to them respectively: Provided also, that the said public water rate shall not be made or levied in respect of any garden not attached to or occupied with a dwelling house, or of any arable, meadow, or pasture land within the said limits, to a greater extent than according to one fourth part of the real rent or full annual value thereof respectively.

Rates to be regulated so as not to exceed expenses.

47. If in any year the revenue of the commissioners shall be more than sufficient for all the purposes to which it is applicable, the commissioners shall and they are hereby required to carry the surplus to the credit of the account for the following year, in reduction of the estimate of money required for such year; and when there is a deficiency in one year it shall be provided for in the estimate and by assessment in the next year; and the commissioners shall, as nearly as possible, so regulate the domestic water rate that it may one year with another produce the amount of money required: Provided always, that the commissioners shall not be bound under this Act to impose any domestic water rate other than a rate consisting of an integral number of pence in the pound.

Rates to be levied for supply for domestic purposes beyond the limits for compulsory supply.

48. It shall be lawful for the commissioners to levy, for or in respect of the supply of water for domestic purposes to any person within the limits of this Act who is not entitled to demand such supply, a rate not exceeding the amount of the domestic water rate, which shall be levied at the time under the provisions of this Act, with twenty per cent. of the amount of the said rate in addition thereto.

Unoccupied premises may be included in rates.

49. When any premises in respect of which any person may be liable to be assessed to "The Domestic Water Rate" or "The Public Water Rate," under the provisions of this Act, shall at the time of assessing any such rate be unoccupied, then and in every such case it shall be lawful for the commissioners to include such

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premises, describing them in the column in the rate book appropriated to the name of occupier as being "unoccupied;" and if any person shall afterwards occupy such property during any part of the period for which such rate may have been assessed it shall be lawful for the commissioners to insert the name of such occupier, and to levy from the owner and occupier respectively, or from the owner only, if he shall be liable to pay the same in manner herein provided, such part of the said rates as shall be proportioned to the time during which such person shall occupy such property, and every such person shall thereupon be deemed, to all intents and purposes, to be properly rated: Provided always, that the owner or occupier may appeal against the same to the commissioners: Provided also, that, except as aforesaid, no domestic or public water rate shall be payable by any person whatsoever in respect of unoccupied premises.

Power to rate the owners of houses in certain cases.

50. The owner shall be liable for the payment of the domestic water rate for and in respect of every dwelling house, or part of a house used as a dwelling house, or other premises, the annual value of which shall not amount to the sum of five pounds, and also for and in respect of every dwelling house, or part of a house used as a dwelling house, or other premises which shall be let for a term of occupation less than three months; and the powers and provisions in this Act contained for the recovery of the domestic water rate from occupiers shall be construed to apply to the owners of such houses or premises; and the person receiving the rent of any such house or premises as aforesaid from the occupier thereof, on his own account or as agent or factor for any person interested therein, shall be deemed the owner: Provided always, that the commissioners shall allow to the owners of all such houses or premises who shall pay the domestic water rate authorized to be levied by this Act an abatement of twenty per cent. on the amount of such rate paid by such owner.

Owner or occupier may be entered in rate book without stating his name.

51. If the name of any owner or occupier whose name is required to be entered in the rate book of the commissioners under the provisions of this Act shall not, after due inquiry, be known to the commissioners it shall be sufficient to state such owner or occupier in the rate book as the owner or occupier of the property to be rated by the designation of "the owner" or "the occupier," without stating his name.

Form of rate.

52. Every such rate shall be fairly transcribed in a book to be kept for that purpose, and may be in the form of schedule (D.) to this Act annexed, or to the same effect as nearly as may be; and every such rate shall contain an account of every particular set forth

at the head of the respective columns, so far as the same can be ascertained; and notice shall be given to every person rated of the rate charged upon him, and that he may appeal to the commissioners against the same within fourteen days after such notice.

Rate to be open to inspection of ratepayers.

53. The proposed rate, immediately after the same is assessed, shall be open at all reasonable times to the inspection of any person interested or liable to pay such rate, and any such person may take copies or extracts from such rate without paying anything for the same; and any person having the custody of such rate who refuses or does not permit any person so interested or rated as aforesaid to take copies or extracts from such rate shall, for every such offence, be liable to a penalty not exceeding five pounds.

Rates may be amended.

54. The commissioners may from time to time amend any such rate assessed by virtue of this Act by inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting therein the name of any person who ought to have been rated or who has become liable to pay any rate or rates, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if it appear to the commissioners that such person has been erroneously rated, or by making such other amendments therein as will make such rate conformable to this Act, and no such amendment shall be held to make void the rate: Provided always, that every person aggrieved by any such alteration shall have the same right of appeal therefrom as he would have had if his name had been originally inserted in the rate book and no such alteration had been made; and as respects such person the rate shall be considered to have been assessed at the time when he received notice of such alteration; and every person whose rate is altered shall be entitled to seven days notice of such alteration before the rate shall be payable by him.

Mode of ascertaining rental of property to be assessed.

55. The commissioners may estimate and fix the real rent or full annual value of the lands, premises, and property liable to the said domestic water rate and public water rate respectively by the valuation made under the provisions of the public Act seventeenth and eighteenth Victoria, chapter ninety-one, for the valuation of lands and heritages in Scotland, or of any Act for amending that Act: Provided always, that where the said valuation does not afford the means for assessing the said rates, or either of them, in terms of this Act, the same shall be assessed by the commissioners in such manner as shall in their opinion be just.

Any person aggrieved

56. If any person shall consider himself to be improperly or unduly rated he may, within fourteen days from the date of the

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may lodge objections, and be heard.

notice being given of such rate, lodge with the treasurer written objections signed by him; and the commissioners, or a committee named by them, shall proceed on such days and at such places as shall be fixed by them, and of which notice shall be given to such persons by the treasurer not less than forty-eight hours previously, to consider such objections, and shall dispose thereof summarily and without written pleadings, and may, if they think proper, give such relief in the premises as they shall deem just.

Appeal to sheriff against rates.

57. If any person shall think himself aggrieved by any such determination of the commissioners or of their committee he may appeal to the sheriff within seven days after the date of such determination; but no such appeal shall be entertained by the sheriff unless three clear days notice in writing of such appeal, stating the nature and ground thereof, be given by the party complaining to the commissioners; and the judgment of the sheriff in the said appeal shall be final and conclusive, and not subject to review by any court or in any manner whatsoever.

Commissioners may arrange for assessment and collection of rates.

58. It shall be lawful for the commissioners from time to time to agree and determine with any officers having the charge and collection of any other rates and assessments within the limits of this Act for the assessment and collection of the several rates authorized to be made and levied by this Act, in such manner and form as the commissioners and such officers respectively shall mutually determine, with the view to the collection thereof in the most satisfactory and economical manner.

Assessment of rates.

59. The commissioners shall assess "The Domestic Water Rate" and "The Public Water Rate," prospectively in order to raise money, to pay charges and expenses to be incurred thereafter, or retrospectively in order to raise money to pay charges and expenses already incurred; and all such rates shall be assessed for the period from the fifteenth day of May in each year to the fifteenth day of May in the year following; and all such rates shall be payable in advance, at the office of the commissioners, at such time or times as the commissioners may determine: Provided always, that in order to meet the sums requiring to be disbursed by them, so far as chargeable against revenue, for the period from the eleventh of November one thousand eight hundred and sixty-nine to the fifteenth of May one thousand eight hundred and seventy inclusive, including the expenses of management and the annuities and interest of borrowed money due and payable on the fifteenth of May one thousand eight hundred and seventy, it shall be lawful for the commissioners, and they are hereby authorized and required, at any time after the eleventh of November one thousand eight

hundred and sixty-nine, to assess and levy a rate of such amount as they shall think necessary upon and from the persons liable in payment of the said domestic water rate according to the real rent or full annual value of the subjects or premises in respect of which the said domestic water rate is by this Act authorized to be assessed and levied; and also a rate of one halfpenny per pound upon and from the persons liable in payment of the said public water rate according to the real rent or full annual value of the subjects or premises, or to the one fourth part thereof, as the case may be, in respect of which the said public water rate is by this Act authorized to be assessed and levied, which several rates shall be paid by or recovered from such persons respectively, and shall be applied to the purposes above mentioned; and all the powers, enactments, and provisions contained in this Act, with respect to the assessment, levying, payment, and recovery of the said domestic water rate and the said public water rate, shall be and are hereby made applicable to the assessment, levying, payment, and recovery of the rates by this section authorized and required.

Recovery of arrears of rates.

60. The commissioners may recover any arrears of "The Domestic Water Rate" and "The Public Water Rate" due under the provisions of this Act, either according to the ordinary procedure before any competent court or by obtaining from the sheriff a summary warrant to recover such arrears, with the addition of ten per centum on the amount thereof as costs, from the persons liable to pay the same, which warrant the sheriff shall grant on production of a list of the names and addresses of the persons so in arrear, and the amounts respectively due by them, with a certificate attached, signed by the collector or by the treasurer, that the persons named as in arrear have been severally required to make payment of the said arrears by a requisition printed or written, or partly printed and partly written, in the name of the commissioners delivered to them personally or left at their respective dwelling places, or in the premises in respect of which the rates are assessed, at least fourteen days previously, and that such rates are truly due by them, and do not exceed the rates fixed by or under the provisions of this Act: Provided always, that it shall be in the power of such persons, upon consignation of the sums respectively alleged to be due by them and costs, to cite the treasurer or collector of the commissioners to appear before the sheriff, who shall thereupon summarily inquire into and dispose of any objections that may be stated, and confirm or recall wholly or partially said warrant, and the judgment of the sheriff shall be final and not subject to review by any court whatever.

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Powers to enforce warrant for recovery of arrears.

61. The commissioners may, in virtue of the said warrant, enter into the premises of the persons so in arrear, and poind, seize, remove, and secure their goods, chattels, and effects, or so much thereof as will fully satisfy the respective amounts due by them, including costs; and may, after the lapse of four days, in the event of non-payment or nonconsignation of the said arrears or rates and the costs, sell and dispose of the said goods, chattels, and effects, and apply the proceeds in or towards payment of such arrears and costs.

Rate books to be evidence.

62. In any proceeding to levy and recover, or consequent on the levying or recovering, of any rate under the provisions of this Act, the books of rates of the commissioners, and all entries made therein in manner by this Act directed, on the production thereof alone, and without any evidence that the notice and other requirements of this Act have been given and complied with, shall be received as primâ facie evidence of such rate and the amount thereof.

Application of rates.

63. The rates and charges levied under the authority of this Act, and the other income of the commissioners under this Act, shall be applied in manner following; that is to say,

First. In defraying the expenses of the management and maintenance of the undertaking, including the salaries and other payments to the officers and servants of the commissioners; and the annual costs, charges, and expenses of providing and supplying water, and in payment of any feu duties or ground annuals, and other annual payments exigible in respect of any lands, streams, or property forming part of the undertaking:

Second. In payment of the perpetual annuities to the annuitants, and of the interest of money borrowed under the authority of this Act, and the annuity on the funded debt (if there be any) issued in lieu of money borrowed or authorized to be borrowed under this Act:

Third. In payment of the sum by this Act directed to be set apart as a sinking fund:

Lastly. In payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes, and of extending the works, mains, and pipes from time to time, as the commissioners shall think it reasonable to charge against the revenue for the year, and of any other necessary annual expenditure.

Power to borrow on mortgage.

64. It shall be lawful for the commissioners to borrow on mortgage any sums not exceeding in all eighty thousand pounds.

Commissioners may grant mortgages.

65. It shall be lawful for the commissioners to make and grant mortgages of the property and works forming their undertaking, and of the several rates and charges leviable by them under the provisions of this Act, in security of the payment of the money so borrowed and interest thereon; and if, after having borrowed the said sums, or any part thereof, the commissioners pay off the same otherwise than by means of the sinking fund herein-after mentioned it shall be lawful for them again to borrow the amount so paid off, and so from time to time.

Form of mortgage.

66. Every mortgage to be granted by the commissioners shall be by deed, duly stamped, in which the consideration shall be duly stated, and may be in the form of schedule (E.) to this Act annexed, or to the like effect.

Mortgages may be accompanied with interest warrants.

67. It shall be lawful for the commissioners to issue, along with any such mortgage, and during the period of any postponement of the term of payment thereof, interest warrants in the form of schedule (F.) to this Act annexed, or to the like effect, signed by the treasurer, for the periodical payment of the interest to become due on the principal sums thereby secured during the period for which such mortgage is intended to subsist; and the delivery to the commissioners or their treasurer, or to any person on their behalf, of any such interest warrant (duly stamped as a receipt) shall be a valid and sufficient discharge to the commissioners for the interest in respect of which the same was issued.

Commissioners may borrow on credit of a cash account.

68. It shall be lawful for the commissioners to accept and take from any bank or banking company credit on a cash account, to be opened and kept with such bank or banking company in the name of the commissioners, according to the usage of bankers in Scotland, to the extent of the sums which the commissioners are herein-before authorized to borrow, or any part thereof, and to make and grant mortgages of the property and works forming their undertaking and of the several rates and charges leviable by them under this Act, in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account, with interest thereon: Provided always, that the whole principal sums due and owing by the commissioners on such cash account, and for money borrowed by them on mortgage as aforesaid, shall not, when taken together, exceed the sums by this Act authorized to be borrowed.

Manner in which mortgages and orders on bank account

69. Every mortgage to be granted by the commissioners may be partly in writing and partly printed, and shall, besides being under the common seal of the commissioners, be signed by at least two of the commissioners and the treasurer; and all drafts or orders on the

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to be signed and executed.

cash account before mentioned shall be signed by any two of the commissioners authorized so to do, and shall be countersigned by the treasurer; and no commissioner or treasurer shall, by his subscription to any such mortgage, draft, or order, be or be held to have rendered himself, individually or personally, liable for the payment of any money so borrowed, drawn, or received, or any interest thereon, or of any sums whatsoever in respect thereof.

Commissioners may fund debt and issue certificates of funded debt.

70. It shall be lawful for the commissioners from time to time, in lieu of borrowing or continuing on mortgage the sums which they are authorized to borrow under the authority of this Act, to resolve to fund the whole of such sums, or such part thereof as they shall from time to time think fit, and on any such resolution being passed, the amount stated therein shall be denominated "The Dundee Waterworks Funded Debt;" and it shall be lawful for the commissioners to issue to any person, company, trustees, or corporation paying to them any portion of the said sums a certificate of such person, company, trustees, or corporation, being the holder of funded debt, to the amount so paid, and every such certificate may be according to the form of the schedule (G.) to this Act annexed, or to the like effect, and shall be subscribed by two of the commissioners and the treasurer: Provided always, that after the creation and issue of any portion of such funded debt it shall not be lawful for the commissioners to issue mortgages for or again to borrow the amount so created and issued; and the powers of borrowing by the commissioners shall, to the extent of the funded debt so from time to time created and issued, be extinguished, and the sums due and owing at any one time on the security of the undertaking and water rates and charges by this Act authorized to be levied, including the funded debt, shall not exceed the sums by this Act authorized to be borrowed.

Register of holders of funded debt to be kept

71. The commissioners shall from time to time cause the names of the several parties who may be interested in such funded debt as aforesaid, with the amount of the interest therein possessed by them respectively, to be entered in a book to be kept for that purpose, and to be called the "Register of Holders of Funded Debt;" and such book shall be accessible at all reasonable times to the several holders of such debt or holders of mortgages granted by the commissioners.

Transfer of funded debt.

72. The interests of the several holders of such funded debt, or any part of such interests, may be transferred or transmitted in the same manner, and subject to the same regulations and provisions mutatis mutandis, as or according to which any mortgage to be granted by the commissioners may be transferred or transmitted

under the provisions of this Act and the said Commissioners Clauses Act; and the commissioners shall cause an entry to be made, in a book to be kept by the treasurer for that purpose, of every such transfer or transmission, and for every such entry the treasurer may demand any sum not exceeding two shillings and sixpence.

Annuity to be paid.

73. The several holders of the said funded debt shall receive an annuity thereon at any rate, not exceeding five pounds per centum per annum, which shall be fixed by the commissioners in any resolution to be passed by them as aforesaid, and specified in the certificates issued to the holders of the said funded debt, which annuity shall be payable half-yearly, on the fifteenth day of May and the eleventh day of November in every year; and the holders of the said funded debt shall not be entitled to demand repayment of the capital thereof, but the same shall be redeemable by the commissioners in whole or in part by means of the sinking fund herein provided, and not otherwise, on payment to the holders of the said funded debt of the principal sum due to them and of any arrears of annuity which at the time may be due thereon, six months notice of their intention so to redeem being given by the commissioners to the holders of such part of the said funded debt as may be intended to be so redeemed, and such holders respectively shall be bound to accept of such redemption money when tendered by the commissioners.

Security of holders of funded debt.

74. The several holders of such funded debt shall be creditors of the commissioners for the payment of the said annuity, and shall be deemed to hold, by virtue of this Act, a mortgage of the property and works forming the undertaking of the commissioners, and of the several water rates and charges leviable under the provisions of this Act, in security of such payment, and the holders of the said funded debt shall rank pari passu with the holders of the annuities payable for the undertaking of the company and with the holders of the sums of money which the commissioners may have in loan or be entitled to borrow under this Act, and the interest thereon.

Arrears may be enforced by appointment of factor.

75. In the event of any annuity or part of an annuity payable under this Act, or of any principal money borrowed by the commissioners as aforesaid, or any interest thereon, not being paid within two months after the same shall have become due, and after twenty-one days previous demand thereof in writing, containing notice of the intention to make the application after mentioned, and which twenty-one days may form part of the said two months, it shall be

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lawful for any annuitant or mortgagee having an annuity or interest on a mortgage respectively in arrear to the amount of two hundred pounds, or for any mortgagee with principal or principal and interest in arrear to the amount of five thousand pounds, or for several annuitants or mortgagees having annuities or interest respectively in arrear to the amount of two hundred pounds in the aggregate, or for several mortgagees with principal or principal and interest in arrear to the amount of five thousand pounds in the aggregate, to render their security effectual by the appointment of a judicial factor; and the application for such appointment may be made from time to time when such arrears arise, and shall be made by summary petition to the Court of Session, in either division thereof, or in time of vacation to the lord ordinary on the bills, who are hereby respectively authorized and required, on such application being made by any annuitant or annuitants, or mortgagee or mortgagees, holding the sums in arrear before specified, to appoint from time to time some person as judicial factor, to the effect and with the powers herein-after mentioned, unless, previously to such application being advised, the sums due, with interest and expenses, shall have been paid to the petitioner or petitioners; and the interlocutor making such appointment shall not be subject to review or appeal, but without prejudice to the legal rights of recovery competent to such annuitant or annuitants, or mortgagee or mortgagees.

Powers and duties of judicial factor.

76. The judicial factor so appointed, on finding security in common form, shall have and exercise all the powers conferred by this Act upon the commissioners for and in relation to fixing, imposing, levying, and recovering the several rates and charges by this Act authorized to be made and levied, and managing and maintaining the undertaking, works, and property of the commissioners; and the commissioners shall deliver to him all rate books and other books and documents necessary for that purpose; and after defraying the expense of such application, management, and maintenance the said judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several parties entitled to payment out of the rates and revenues, according to their respective rights and priorities as herein-before provided; and such judicial factory shall continue not only until all arrears of annuities and arrears of interest or of principal and interest of mortgages due at the date of the appointment of such judicial factor, and all interest due on any of the said sums and any annuities or interest which shall have become due during his continuance in office, with interest and expenses, including the expenses of the application for such appointment and of carrying the purposes thereof into execution, and for obtaining the judicial factor's discharge, shall have

been paid, but also until any half-year's annuities or interest which, although not due, may become current during his continuance in office, and a sufficient sum to meet expenses, shall have been paid or consigned in one of the banks in Scotland incorporated by Act of Parliament or royal charter; and upon payment as aforesaid of such annuities, interest, and expenses it shall be lawful for the commissioners to apply to the Court of Session, in either division thereof, or, in time of vacation, to the lord ordinary on the bills, for the recall of the appointment of the judicial factor, who may recall such appointment accordingly.

Mortgages and funded debt to be personal estate.

77. All mortgages and certificates of funded debt to be granted by the commissioners under the authority of this Act, and all money to be advanced and lent on the security of their undertaking and of the rates and charges leviable by them, shall be moveable or personal estate, and transmissible as such, and shall not be of the nature of heritable or real estate.

Discharge of mortgages.

78. Any person entitled to any mortgage granted by the commissioners under the authority of this Act may discharge the same, and his right and interest therein, in favour of the commissioners; and every such discharge may be written, or partly written and partly printed, on the mortgage, and may be according to the form contained in the schedule (H.) to this Act, or to the like effect; and such discharge, when signed by the person entitled to such mortgage, and duly stamped, shall be valid and effectual to all intents and purposes.

Providing for regular payment of annuities.

79. With a view to the regular payment of the annuities under the provisions of this Act as the same fall due, the commissioners shall from time to time apply such part of the money borrowed under the authority of this Act as may be required to pay the said annuities; but it shall be incumbent on the commissioners to replace the sums so applied out of the rates and charges to be imposed and levied under the powers of this Act.

Application of monies borrowed and raised.

80. The several sums borrowed by the commissioners on mortgage, or raised by means of the funded debt, under the authority of this Act shall be applied in payment of the mortgage and bond debts of the company, and of the expenses specified in the last section of this Act, in enlarging or increasing the number of mains and pipes, and of extending and improving the works, mains, and pipes, and, excepting temporary advances for payment of the annuities as herein-before provided, to no other purpose whatever.

Sinking fund.

81. It shall be lawful for the commissioners, and they are hereby required, after the eleventh day of November one thousand eight hundred and seventy, to set apart annually as a sinking fund the

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following sums; that is to say, during each of five years a sum of seven hundred and fifty pounds, and after the expiration of such five years a sum of one thousand pounds yearly, together with an amount equal to one half of the amount of the interest which would have accrued on any mortgages that may have been previously paid off out of such sinking fund, and to one half of the amount of any annuities which may have been previously purchased or redeemed out of such sinking fund; and such sinking fund shall be from time to time applicable to the redemption of mortgages or of the annuities payable for the undertaking of the company, or of the annuities payable to the holders of the funded debt, as the commissioners think proper, and to no other purposes whatever, and shall be lodged in any of the banks in Scotland incorporated by Act of Parliament or royal charter, or invested in Government securities, or lent out at interest in the name and at the discretion of the commissioners until the same be applied for the purposes before specified.

Application of penalties.

82. All penalties and forfeitures exigible under this Act, and the Acts wholly or partially incorporated herewith, shall be payable to the commissioners, and shall, when recovered, be applied by them to the purposes of this Act.

Expenses of Act.

83. All costs, charges, and expenses of and incidental to the preparing for, obtaining, and passing this Act, or otherwise in relation thereto, incurred by the town council and by the company, or either of them, shall be paid by the commissioners out of the monies to be raised and levied under the authority of this Act.

DUNDEE WATER.

SCHEDULE (A.)

Agreement between the Magistrates and Town Council of Dundee, on the first part, and the Dundee Water Company, incorporated under the Act eighth and ninth Victoria, chapter one hundred and thirty-seven, on the second part.

Whereas the said first parties hereto have deposited a Bill in Parliament in the present session, intituled "A Bill to incorporate "Commissioners and to provide more effectually for the supply of "the town of Dundee and places adjacent with Water, and for "vesting in the Commissioners the Waterworks and property con-"nected therewith of the Municipal Corporation of Dundee and "of the Commissioners under the Act (local and personal) first "Victoria, chapter one hundred and twenty-six, and for the ac-"quisition by the Commissioners of the Undertaking of the Dundee "Water Company, and other purposes:" And whereas the second parties hereto have intimated their determination to resist the obtaining of powers to compel them to dispose of the said undertaking, and it has been agreed between the said parties, with the view to avoid a parliamentary contest, that the said Bill should be altered, amended, and modified to carry out the agreement underwritten; therefore the said parties contract and agree as follows:

First.—The undertaking of the Dundee Water Company (excepting as after mentioned) shall be transferred in manner after mentioned to the commissioners under the said Bill and Act to follow thereon.

Second.—The said commissioners shall become bound under said Act to pay to the shareholders of the said company, according to their respective rights and interests, perpetual annuities, amounting to eleven thousand pounds sterling upon the capital created under the authority of the Acts eighth and ninth Victoria, chapter one hundred and thirty-seven ("The Dundee Waterworks Act, eighteen hundred and forty-five"), and twenty-ninth and thirtieth Victoria, chapter one hundred and thirty-three ("The Dundee Waterworks Extension Act, eighteen hundred and sixty-six"); and also perpetual annuities amounting to three thousand three hundred and fifteen pounds upon the capital raised under the Acts sixteenth Victoria, chapter fifty, ("The Dundee Waterworks Extension Act, eighteen

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hundred and fifty-three,") and twenty-fifth Victoria, chapter forty-three ("The Dundee Waterworks Act, eighteen hundred and sixty-two,") payable, the said annuities in half-yearly moieties, to the said respective shareholders according to their respective rights and interests, on the fifteenth day of May and on the eleventh day of November in every year in all time coming, the first payment thereof being payable on the fifteenth day of May eighteen hundred and seventy, for the half-year preceding.

Third.—That annuity debentures shall be granted by the said commissioners, free of charge, on or before the eleventh day of November eighteen hundred and sixty-nine, to the respective holders of the said several shares; and provisions shall be made in the said Bill and Act in reference thereto conform to the clauses which have been adjusted and signed by the agents of the respective parties as relative hereto.

Fourth.—The annuitants shall be creditors for payment of the said annuities, and interest thereon; and the said annuities and interest, and the interest on the money to be borrowed under the said Act, shall be thereby constituted primary and preferential burdens and liens on the said undertaking, and on any other works and property to be constructed and acquired by the said commissioners, and on the rates, charges, and assessments at any time hereafter leviable by them.

Fifth.—The said commissioners shall undertake all the mortgage and other debts, feu duties, liabilities, and obligations, and all annual payments of the company (except unpaid debts against revenue), and shall free and relieve the company of the same; and the undertaking shall vest in the commissioners on the eleventh day of November eighteen hundred and sixty-nine, or so soon thereafter as discharges of the mortgage debt, relieving the company and the shareholders from all liability, shall have been granted and recorded; and, in case of legal obstacle arising which may prevent such discharges from being obtained, consignation of the amount of the debt at the sight and to the satisfaction of the sheriff shall have the same effect for this agreement as immediate discharges; and the certificate of the sheriff that this obligation has been fulfilled shall make the vesting complete and effectual.

Sixth.—The said company shall pay all outstanding debts against revenue up to the said eleventh day of November eighteen hundred and sixty-nine, but shall be paid and entitled to retain the reserved fund, less the sum of two thousand one hundred pounds, which shall be paid to or placed to the credit of the commissioners; and the said company shall have right to all revenue balances and

arrears, and rates and charges, whether in bank or outstanding, due and current up to the twenty-second day of November eighteen hundred and sixty-nine, in respect of supplies of water and others due and outstanding: Providing always, that the commissioners shall pay, or if already paid repay to the company, one half of the poor's rates, police assessments, and other annual burdens from the term of Whitsunday eighteen hundred and sixty-nine to the term of Whitsunday eighteen hundred and seventy; and the company shall pay the commissioners five hundred and fifty pounds, in consideration of the eleven days revenue to be drawn by the company for the period between the eleventh and twenty-second days of November eighteen hundred and sixty-nine.

Seventh.—That the said Bill and Act shall contain clauses for fully carrying out the agreement and securing the payment of the said annuities out of rates and assessments and charges to be levied under the said Act, similar to the clauses contained in the deposited Bill.

Eighth.—That the said second parties shall be entitled to appear by petition against the Bill, and for the protection of their rights and interests.

Ninth.—In case the said magistrates and town council shall fail or not be able to carry a Bill or Act fully to carry out the purposes and objects of this agreement in their integrity, then they hereby undertake to withdraw the said Bill, unless the Bill fail in its object through the default of the company.

Tenth.—That if any difference shall arise between the said parties as to the true intent and meaning of these presents, and the obligations of parties under the same, or as to the changes or modifications to be made in the said Bill and Act for fully carrying out this agreement, then the same shall be referred to the decision of John Horatio Lloyd, Esquire, barrister-at-law, whom failing John Davison, Esquire, Queen's counsel, whose decision shall be final.

Eleventh.—That the expenses of this agreement, including the revising thereof, shall be borne mutually by the parties hereto; and that all costs and charges of every kind (except as aforesaid) in endeavouring to carry out the said transaction and the objects of this agreement, and expenses connected therewith in Parliament and otherwise, including those to be incurred by the said company and their agents, shall be borne by the promoters of the said Bill.

Twelfth.—Notwithstanding what is herein contained, the company and their directors shall be entitled to exercise all their existing

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Thirteenth.—The said several parties are in good faith to do their respective parts for carrying out this agreement and obtaining parliamentary authority; and all the clauses of the said Bill, as between the parties hereto, are to be agreed upon and adjusted by the said referee in case of difference before the first reading of the Bill; but if the parties fail in obtaining the proposed legislative authority for carrying out this agreement in all its integrity then the transaction shall come to an end, and the only liability of the magistrates and town council shall be for the expenses to be incurred as aforesaid, and these shall in that case be borne by the common good of the burgh of Dundee. In witness whereof these presents (executed in duplicate), consisting of this and the three preceding pages and the three marginal additions—two on page first, and one on page third hereof—all written on stamped paper by John Forbes, Clerk to Christopher Kerr, Town Clerk, Dundee, are subscribed as follows, vizt.—the first three pages and said three marginal additions by William Hay, Provost of the Royal Burgh of Dundee, for himself and on behalf of the other after-named members of the town council of the said burgh as authorized by them; and this page by the said William Hay, Provost, and by James Stewart, William Nicoll, and James Cox, Bailies, Robert McNaughtan, Dean of Guild, and by James Yeaman, Alexander Hay Moncur, Patrick Watson, William Kirkland, William Brownlee, Robert Ferguson, James Allan, George Thomson Graham, and Thomas Ness, Common Councillors, all of the said royal burgh, and constituting a quorum of the magistrates and Town Council thereof, while in council assembled, within the Council Chambers of Dundee, on the twenty-first day of January in the year eighteen hundred and sixty-nine, before these witnesses the said Christopher Kerr and John Carron Jameson, his clerk; and each page hereof and each of said marginal additions are subscribed by Patrick Hunter Thoms, Peter Hean, and George Rough, three and a quorum of the directors of the said company, all at Dundee, on the twenty-fifth day of said month of January and year last mentioned, before these witnesses, Alexander Moffat, Clerk to Shiell and Small, Solicitors, Dundee, and John Wilson, Clerk to the said Company. Declaring that the word "and" on the fifteenth line of page second, and the words "as follows, vizt." on the seventh line of this page, are delete; and the word "so" on the twenty-fourth line of page second is written on erasure, all before subscription; and further

declaring that the word "hundred" on the thirty-fifth line of page first is written on erasure also before execution hereof. (Signed) William Hay, Provost, James Stewart, Bailie, William Nicoll, Bailie, James Cox, Bailie, Jas. Yeaman, Councillor, A. H. Moncur, Councillor, Patrick Watson, Councillor, Wm. Kirkland, C., W. Brownlee, Councillor, Robt. Ferguson, Councillor, James Allan, Councillor, Geo. T. Graham, Councillor, Thomas Ness, Councillor, Robt. McNaughtan, D.G., P. H. Thoms, Chairman of said Company, Peter Hean, Director, Geo. Rough, Director, Chris. Kerr, Witness, John C. Jameson, Witness, Alex. Moffat, Witness, John Wilson, Witness.

SCHEDULE (B.)

Dundee Water.

Form of Annuity Certificate.

No.

This is to certify that *A.B.* (*name and designation*) is entitled to receive from the commissioners appointed under "The Dundee Water Act, 1869," an annuity of pounds, payable by equal half-yearly portions, on the fifteenth day of May and eleventh day of November in each year, beginning the first payment thereof on the fifteenth day of May one thousand eight hundred and for the half-year preceding, and so forth thereafter, and which annuity is preferably secured on the property and works vested and hereafter to be vested in the said commissioners, and on the several rates and charges to be levied and received by them.

Dated this day of one thousand eight hundred and

(*Signed by two commissioners and the treasurer.*)

SCHEDULE (C.)

Dundee Water.

Form of Transfer of Annuity Certificate.

I, *A.B.* (*name and designation*), in consideration of the sum of pounds (*or other consideration, as the case may be*), paid to me by *C.D.* (*name and designation*), do hereby transfer to the said *C.D.*, and his executors, administrators, or assignees, the annuity of pounds, No. (*as the case may be*) of "The Dundee Water Annuities," created under and by virtue of "The Dundee Water Act, 1869," now standing in my name in the books of the commissioners appointed under the said Act, with the rights and privileges and subject to the conditions and provisions specified in the said Act; and I the said *C.D.* do hereby agree to hold the said annuity, subject to the same conditions and provisions. In witness whereof (*insert testing clause, according to the form of the law of Scotland, if executed in Scotland; and if executed in England or elsewhere the form of attestation used in England*).

SCHEDULE (D.)

Dundee Water.

Form of Rate.

An assessment to the domestic water rate [*or* public water rate, *as the case may be*] for the parliamentary burgh of Dundee and places adjacent, for the year from the fifteenth day of May one thousand eight hundred and , to the fifteenth day of May one thousand eight hundred and , at the rate of in the pound.

Number in the Rate.	Name of Person rated.	Name of the Owner of the Property rated.	Description and Situation of Property.	Full Annual Value.	Rate at in the Pound.

SCHEDULE (E.)

Dundee Water.

Mortgage No. £

By virtue of "The Dundee Water Act, 1869," we, "the Dundee Water Commissioners," incorporated under the said Act, in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the treasurer to the said commissioners for the purposes of the said Act, do hereby grant and assign to the said [*name of mortgagee*] and his executors, administrators, and assignees [*or as the case may be*] the property and works vested and hereafter to be vested in the said commissioners, and the rates and charges to be levied by them under the authority of the said Act, to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied; and it is hereby stipulated that the said principal sum shall be repayable on the [*date*], or shall thereafter, in virtue hereof, remain as a loan to the said commissioners until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be endorsed hereon, and signed by the said mortgagee or his foresaids and by the treasurer to the said commissioners, and which minute or minutes are hereby declared and shall be held to be valid and binding, though they may be neither holograph of the said mortgagee or his foresaids, or of the said treasurer, nor tested; and for and in respect of interest on the said principal sum to the said date of repayment first above-mentioned (being at the rate of [*specify rate*] per centum per annum) the said commissioners shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof and delivered herewith, and that at the several times mentioned in such warrants, upon delivery of the same respectively, and such delivery shall be a sufficient receipt and discharge to the said commissioners for the contents of such warrants; declaring that the said mortgagee and his foresaids shall not be entitled to make, and that the said commissioners shall not be bound to recognize or register, any partial assignation of these presents, or of the sums of money, principal or interest, herein contained, and that the said commissioners shall not be liable for any expenses that may be incurred by the said mortgagee or his foresaids for or in relation to the preparation, revision, adjustment, or execution of this mortgage, or of any discharge, renunciation, release, assignation, or minute of postponement or renewal thereof.

In witness whereof (*testing clause according to law of Scotland*).

A.D. 1869

SCHEDULE (F.)

DUNDEE WATER.

Form of Interest Warrant.

Mortgage No. Dated 18

Interest Warrant.

For pounds shillings and pence £ : :

Less income tax : :

£ : :

Payable on 18

at the

Treasurer.

SCHEDULE (G.)

DUNDEE WATER.

Form of Certificate of Funded Debt.

No.

This is to certify that *A.B.* (*name and designation*) is the holder of pounds of "The Dundee Waterworks Funded Debt," created by and under the provisions of "The Dundee Water Act, 1869," and is entitled to receive an annuity on the said sum at the rate of per centum per annum.

Signed this day of one thousand eight hundred and

SCHEDULE (H.)

DUNDEE WATER.

Form of Discharge.

Received from the treasurer to the Dundee Water Commissioners, acting on their behalf, the sum of , being the principal sum contained in the within mortgage (all interest due thereon having been previously paid), and the said mortgage is now delivered up as paid.

Dated this day of eighteen hundred and

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