CHAP. cxxiii.

An Act for extending the limits within which the Newcastle and Gateshead Water Company may supply Water, and for empowering them to construct additional works and to raise additional capital; and for other purposes. A.D. 1870.

[14th July 1870.]

WHEREAS the Newcastle and Gateshead Water Company (in this Act called the Company) are by The Newcastle and Gateshead Waterworks Act, 1863, and The Newcastle and Gateshead Waterworks Act, 1866, (in this Act referred to as the Company's former Acts, the first thereof being referred to as the Company's Act of 1863, and the second thereof as the Company's Act of 1866,) incorporated, and empowered for the purpose of supplying with water the borough and county of Newcastle-upon-Tyne, and the borough of Gateshead, and parishes and places adjoining or near thereto: 26 & 27 Vict. c. xxxiv. 29 & 30 Vict. c. xlix.

And whereas it is expedient that the limits within which the Company may supply water be extended, and that they be empowered to construct additional reservoirs and works, and to obtain a further supply of water:

And whereas by an Act of the twenty-sixth year of the reign of King George the Third (chapter one hundred and ten), intituled "An Act for supplying North Shields, and the shipping resorting "thereto, with water," the company of proprietors of the North Shields Waterworks (in this Act referred to as the North Shields Company) were incorporated, and were empowered to convey water into the town of North Shields and parts adjacent, and other powers connected therewith were by the same Act conferred on that company: 26 G. 3. c. 110.

And whereas it is expedient that provision be made for the supply by the Company to the North Shields Company of water in bulk on terms to be from time to time agreed upon between them:

And whereas by The Redheugh Bridge Act, 1866, the Company were empowered to subscribe towards the undertaking by that Act 29 & 30 Vict. c. lxiii.

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authorised, on the terms therein specified, and to raise additional capital for that purpose, and it is expedient that they be authorised to subscribe a further sum towards the same undertaking:

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

And whereas it is expedient that the powers of the Company be in various respects enlarged, and that the Acts relating to the Company be in divers particulars extended and amended:

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

And whereas plans and sections describing the lines, situation, and levels of the intended works, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands in the line of the proposed works, or within the limits of deviation as defined on the plans, and describing those lands, have been deposited with the respective clerks of the peace for the counties of Northumberland and Durham (which are in this Act referred to as the deposited plans, sections, and book of reference):

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as The Newcastle and Gateshead Waterworks Act, 1870.

Provisions of general Acts herein named incorporated.

2. The following Acts and parts of Acts (as far as they are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act; namely,

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:

The Waterworks Clauses Acts, 1847 and 1863:

The provisions of The Companies Clauses Consolidation Act, 1845, with respect to the matters following; (that is to say,) the distribution of the capital of the Company into shares, the transfer or transmission of shares, the payment of subscriptions and the means of enforcing the payment of calls, the forfeiture of shares for nonpayment of calls, the remedies of creditors of the Company against the shareholders, the borrowing of money by the Company on mortgage or bond, the conversion of borrowed money into capital, and the consolidation of the shares into stock:

Parts I., II., and III. of The Companies Clauses Act, 1863, (relating to cancellation and surrender of shares, additional capital, and debenture stock):

The provisions of The Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof, and with respect to the crossing of roads, or other interference therewith.

Interpretation of terms.

3. Terms to which meanings are assigned in Acts incorporated wholly or in part with this Act, or which have therein special meanings, have in this Act the same respective meanings; and in this Act, and (for the purposes of this Act) in Acts incorporated wholly or in part with this Act, the term "court of competent jurisdiction" shall have effect as if the debt or demand with respect to which it is used was a common simple contract debt, and not a debt or demand created by statute, and the term "superior courts" shall include courts of competent jurisdiction within the meaning of this Act.

Power to make waterworks and take lands, &c.

4. Subject to the provisions of this Act, the Company may make and maintain, in the lines or situations and according to the levels shown on the deposited plans and sections, the reservoirs, cooling pond, aqueducts, conduits, lines of pipes, alterations, deviations, diversions, and other works shown on the deposited plans, with all proper approaches, works, and conveniences connected therewith, and may enter or take and use such of the lands described in the deposited plans and book of reference as they require for the purposes of this Act, and may take, use, divert, and appropriate for the purposes of works authorised by this Act, and of the existing and authorised works of the Company, water from the river Tyne, subject to the provisions and conditions in the Company's Act of 1863, and all springs and streams of water shown or mentioned on the deposited plans as intended to be taken or to be intercepted by any of the works authorised by this Act, and all waters found in, on, or under any of the lands for the time being belonging to the Company, and may stop up all roads and ways within the limits of deviation defined on the deposited plans which are shown thereon as intended to be stopped up, and may appropriate for the purposes of this Act the sites of the roads and ways so stopped up.

Power to make tramway.

5. Subject to the provisions of this Act, the Company may make and maintain, in the line and according to the levels shown on the deposited plans and sections, a tramway commencing by a junction with the Carlisle branch of the North-eastern Railway, and terminating in a field in the township of Prudhoe Castle known as the Haugh, with all proper works and conveniences connected therewith,

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and may enter on, take, and use such of the lands described in the deposited plans and book of reference as may be required for the purposes of the tramway, works, and conveniences, and that tramway shall be a private tramway.

As to junction of tramway with North-eastern Railway.

6. The tramway shall join the Carlisle branch of the North-eastern Railway Company at such point, in such manner, and with such connecting lines of approach as have been or shall be approved by the engineer of that company, and sections 9 to 12 inclusive of The Railways Clauses Act, 1863, shall extend and apply to the said tramway and junction, and to the said connecting lines, and the works and conveniences connected therewith respectively, and the Company shall in reference thereto be subject to the restrictions and liabilities by the said sections imposed as if they were a railway company, and the said tramway were a railway, and the Company shall not purchase or take compulsorily any land or property of the North-eastern Railway Company, nor (save only so far as may be necessary for the purpose of making the said junction and connecting lines as aforesaid, and maintaining the same) shall the Company, or any person in the execution of this Act, in any manner, either temporarily or permanently, enter upon, use, or interfere with the railway, lands, or property of the North-eastern Railway Company, except with their consent in writing first obtained.

Limits of lateral deviation.

7. In the construction of the works authorised by this Act, the Company may deviate laterally from the lines thereof, as shown on the deposited plans, to the extent of the limits of lateral deviation marked thereon, but not further, except with the consent of the owner of the lands through or in which a deviation is made.

Limits of vertical deviation.

8. In the construction of the works authorised by this Act, the Company may deviate vertically from the levels shown on the deposited sections in the case of reservoirs to any extent not exceeding five feet upwards and five feet downwards; and in the case of other waterworks, or of the tramway, to any extent not exceeding two feet upwards or two feet downwards.

Temporary occupation of lands.

9. The provisions with respect to the temporary occupation of lands incorporated with this Act shall apply only to the reservoirs and tramway authorised by this Act, and the works immediately connected therewith, and for the purposes of this Act those provisions shall be read as if reservoirs and works and the tramway were therein mentioned instead of the railway, and the boundaries of reservoirs and works instead of the centre of the railway.

Period for completion of works.

10. If the works authorised by this Act are not completed within five years from the passing of this Act, then on the expiration of

that period the powers by this Act granted to the Company for executing the same, or in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed; but nothing in this Act shall restrict the Company from extending, enlarging, altering, or removing any of their engines, machinery, mains, or pipes, at any time and from time to time as occasion requires.

Correction of errors as to lands.

11. Section seven of The Waterworks Clauses Act, 1847 (relative to correction of omission, misstatement, or wrong description), shall apply to lands by this Act authorised to be taken for any purpose.

Powers for compulsory purchases limited.

12. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

Power to take additional lands by agreement.

13. The Company may from time to time for purposes of their undertaking purchase by agreement any lands in addition to lands which they are authorised to take by compulsion, and the Company may hold the same, not exceeding in the whole at one time twenty acres.

Power to agree for easements, &c.

14. The Company may take by agreement, and any person by The Lands Clauses Consolidation Act, 1845, or otherwise, enabled to sell lands may grant to them, any term, estate, easement, interest, right, or privilege therein, not being an easement, right, or privilege of water, or in, over, affecting, or belonging to lands, at a yearly rent or otherwise; but in the case of a person not enabled otherwise than by The Lands Clauses Consolidation Act, 1845, to sell lands, then subject and according to the provisions relative to the taking of lands by agreement contained in that Act and The Lands Clauses Consolidation Acts Amendment Act, 1860, for which purpose any such term, estate, easement, interest, right, or privilege shall be deemed lands within the meaning of those Acts.

Reservation of water rights, &c. on sale.

15. On the sale by the Company of any lands, they may reserve to themselves all or any part of the water rights or other easements belonging thereto, and may make the sale subject to such reservations accordingly, and may also make any such sale subject to such other reservations, special conditions, restrictions, and provisions with respect to use of water, exercise of noxious trades, or discharge or deposit of manure, sewage, or other impure matter, as they think fit.

Company may contract for supply of water in bulk

16. The Company on the one hand, and the North Shields Company on the other hand, may from time to time agree for the supply of water in bulk by the Company to the North Shields Company,

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to North Shields Water Company.

such water to be supplied at such places of delivery, at such rates, and upon such terms and conditions as may be from time to time agreed upon between the two companies, and the North Shields Company shall have the same power and authority to supply the several parishes and places within their limits of supply with the water so supplied to them in bulk as they now have with respect to their existing supply of water.

Power to subscribe further moneys to Redheugh Bridge.

17. The Company may from time to time, with the authority of three fourths of the votes of their shareholders present, in person or by proxy, at a general meeting specially convened for the purpose, subscribe towards the undertaking authorised by The Redheugh Bridge Act, 1866, such sum as they think fit, not exceeding in the whole five thousand pounds, in addition to the sum which they are authorised by that Act to subscribe: Provided always, that if the Company shall sell any shares for which they may so subscribe, their power to borrow on mortgage shall be reduced by an amount equal to the nominal amount of the shares so sold.

Power to apply existing capital.

18. The Company may apply for purposes of this Act any money raised or authorised to be raised by them by or under any former Act, and not required for other purposes of their undertaking.

Power to raise additional share capital.

19. In addition to the existing share capital of the Company they may from time to time by virtue of this Act raise such sums as they think requisite, not exceeding in the whole the sum of one hundred thousand pounds, by the creation and issue of new ordinary shares or new ordinary stock, or new preference shares or new preference stock.

New shares to be subject to same provisions as shares existing.

20. Except as by or under the authority of this Act, or any Act incorporated wholly or in part with this Act, is otherwise provided, the additional share capital created by the Company under this Act, and the shares therein, and the holders of those shares respectively, shall be entitled and subject to the same powers, rights, privileges, and liabilities in all respects as if that new capital were part of the ordinary share capital of the Company existing at the passing of this Act, and those shares were shares in that ordinary capital.

No share or stock to issue until one fifth paid up.

21. The Company shall not issue any share or stock under this Act, nor shall any such share or stock vest in the person accepting it, unless and until a sum not being less than one fifth part of such share or stock is paid in respect thereof.

Power to borrow on mortgage.

22. The Company may from time to time by virtue of this Act borrow on mortgage any sums not exceeding in the whole the sum of twenty-five thousand pounds, and the Company may when

twenty thousand pounds of the said additional capital has been from time to time bonâ fide subscribed for, issued, and accepted, and one half thereof has been paid up, borrow on mortgage any sum or sums not exceeding in the whole five thousand pounds, and when and as each further sum of twenty thousand pounds of the said additional capital has been bonâ fide issued and accepted, and one half the amount thereof respectively has been paid up, the Company may borrow on mortgage such further sum or sums of money, not exceeding in the whole five thousand pounds in respect of each such twenty thousand pounds, but in none of the before-mentioned cases shall any part of the said respective sums be borrowed until the Company have proved to the justice who is to certify under the fortieth section of The Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of the additional capital in respect of which such borrowing powers are sought to be exercised has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share or portion of stock in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Existing mortgages to have priority.

23. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing thereof, shall during their respective continuance have priority over any mortgages granted by virtue of this Act.

Arrears may be enforced by appointment of a receiver.

24. The mortgagees of the Company under this or any former Act may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than two thousand pounds in the whole.

Application of money.

25. All money raised under this Act, either as additional share capital or by borrowing, shall be applied for purposes of this Act and for the general purposes of the Company's undertaking, and not otherwise.

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Power to convert moneys already borrowed into capital.

26. The powers of "The Companies Clauses Consolidation Act, 1845," with respect to the conversion of borrowed money into capital, shall extend and apply to any money already borrowed or which may be from time to time borrowed by the Company.

Extending limits of Acts to Ovingham and Howdon.

27. The limits of the Company's former Acts and this Act shall include, in addition to the places comprised in the limits of the Company's former Acts, the parish of Ovingham, and the township of Howdon in the parish of Wallsend, both in the county of Northumberland; and the Company may accordingly exercise throughout the said parish and township the same powers as the Company's former Acts and this Act would have enabled them to exercise therein had the said parish and township been originally comprised in the limits of the Company's Act of 1863.

Removal of restrictions as to supply of Chirton.

28. So much of section 35 of The Tyne Improvement Act, 1865, is hereby repealed as restricts to the purpose in that section mentioned the extension of the limits by that section made of the Company's Act of 1863, so far as such restriction might be construed as preventing the supply of water in bulk by the Company to the North Shields Company.

Supply of water in bulk not to be afforded to prejudice of domestic supply.

29. No supply of water by the Company under this Act to the North Shields Company shall be afforded so long as it may interfere with the sufficiency of the general supply by the Company for domestic purposes, the standard of such sufficiency being the constant possession day by day by the Company in their reservoirs at Hallington and Whittle Dean of not less than two hundred millions of gallons of water between the first day of May and the thirtieth day of September in every year.

Corporation of Newcastle to have access to Company's reservoirs for the purpose of measuring quantity of water stored therein.

30. It shall at any time be lawful for the council of the borough of Newcastle-upon-Tyne by an order in writing, or by resolution, and for the mayor and town clerk of the said borough for the time being acting under their authority by writing under their respective hands, to appoint some competent person not being a member of such council to proceed to the works of the Company wheresoever situate, and the person so appointed may at any reasonable hour of the day, on producing the said order, enter the premises of the Company, and in the presence of the superintendent or other resident officer of the Company make experiment of and measure the quantity of water in such reservoirs, and for that purpose may make use of all or any gauges and apparatus of the Company, and the Company and their officers shall afford all reasonable facilities and assistance in the making of such experiments and tests; and if it shall be proved to the satisfaction of any two justices acting for the town

and county of Newcastle-upon-Tyne, not being directors or shareholders of the Company, after hearing the parties, that the Company, their superintendent and officers or servants, refused to afford such reasonable facilities as aforesaid, or prevented the making of such experiment in measuring, or that, whilst the Company under this Act supply water to the North Shields Company, the quantity of water was less than the quantity herein-before prescribed, in each and every such case the Company shall forfeit such sum not exceeding twenty pounds as the said justices shall determine.

As to costs of measurement.

31. The costs of and attending such experiments and tests, including the remuneration to the person making the same, and the costs of the proceedings before the justices, shall be ascertained by such justices; and in the event of any penalty being imposed upon the Company shall be paid, together with such penalty, by the Company, or in the event of any penalty not being imposed shall be paid by the said council.

Company to filter their water.

32. The Company shall effectually filter all water drawn by them from the Tyne before the same shall pass into the pipes for distribution.

Recovery of sums due.

33. If any person fails to pay any water rent, meter rent, damages, costs, expenses, or other sum due to or recoverable by the Company under any of their former Acts or this Act, or any Act incorporated wholly or in part therewith, they may recover the same by proceedings in any court of competent jurisdiction, and the remedies of the Company under this section shall be in addition to their other remedies.

Disqualification of directors.

34. Nothing in the Company's former Acts or this Act, or any Act incorporated therewith, shall disqualify or be deemed to have disqualified any person from being a director of the Company, or make or be deemed to have made the office of any director of the Company vacant, by reason of his being interested or directly or indirectly concerned in any contract with the Company relating to the lease, sale, purchase, user, or temporary or other occupation of lands for any purpose of the Company's undertaking, or in any loan of money or security for the payment of money to the Company for any purpose of their undertaking, or in any contract for supply of water by the Company to him, or for his use, or in any contract for the hiring by the Company to him of any meter, but no such director shall vote on any question as to any such contract, loan, or security.

Judges, &c. not disqualified.

35. A judge of any court or a justice shall not be disqualified from acting in the execution of any of the Acts of the Company by

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reason of his being liable to any water rent, meter hire, or other charge due to the Company.

Expenses of Act.

36. The costs, charges, and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining, and passing of this Act shall be paid by the Company.

LONDON: Printed by George Edward Eyre and William Spottiswoode, Printers to the Queen's most Excellent Majesty. 1870.