



CHAPTER lviii.

An Act to authorise the Newcastle and Gateshead Water Company to raise additional moneys by borrowing to increase the powers of charging for water supplied by that Company and for other purposes. [20th July 1922.] A.D. 1922.

WHEREAS the Newcastle and Gateshead Water Company (in this Act referred to as "the Company") were incorporated by the Newcastle and Gateshead Waterworks Act 1863 and are by virtue of that Act and subsequent Acts authorised to supply water within an area which comprises the city of Newcastle-upon-Tyne the boroughs of Gateshead and Wallsend and certain parishes and places in the counties of Durham and Northumberland :

And whereas the issued capital of the Company consists of three hundred and eighty-eight thousand three hundred and ninety pounds ordinary stock entitled to a dividend of ten per centum per annum six hundred and fifty-four thousand two hundred and five pounds ordinary stock entitled to a dividend of seven per centum per annum and one million one hundred and five thousand and fifty-five pounds five per centum preference stock and the Company have received on the issue of the said capital premiums to the aggregate amount of six hundred and twelve thousand three hundred and fifty pounds :

And whereas the Company are empowered to raise by the creation and issue of ordinary stock the sum of two hundred and forty thousand pounds under the Newcastle and Gateshead Waterworks Act 1902 (hereinafter referred to as "the Act of 1902") and by the creation

A.D. 1922. — and issue of ordinary or preference stock the sum of one hundred and fifty thousand pounds under the Newcastle and Gateshead Waterworks Act 1904 (hereinafter referred to as "the Act of 1904") such ordinary stock bearing dividend at a rate not exceeding seven per centum per annum and such preference stock bearing dividend at a rate not exceeding five per centum per annum :

And whereas under the powers of the Acts hereinbefore referred to or some of them the Company have created and issued four per centum debenture stock to the amount of seven hundred and ten thousand pounds and have received on such issue premiums to the aggregate amount of one hundred and twenty-seven thousand two hundred and eighty-one pounds six shillings and eightpence :

And whereas the Company are authorised to raise by borrowing on mortgage of their undertaking or by the creation and issue of debenture stock the further sums of eighty thousand pounds under the Act of 1902 and fifty thousand pounds under the Act of 1904 but no part of those sums can be raised unless or until the Company raise additional moneys by the creation and issue of ordinary or preference capital :

And whereas it is expedient with a view to facilitating the raising by the Company of money required for the extension and improvement of their undertaking that their powers of raising money by the creation and issue of capital or by borrowing or by the creation and issue of debenture stock under the Act of 1902 should be extinguished and that in lieu thereof the Company should be empowered to raise by borrowing or by the creation and issue of debenture stock further moneys in respect of their capital already issued and that their borrowing powers in respect of moneys to be hereafter raised by the creation and issue of capital under the Act of 1904 should be increased and that the provisions contained in this Act with respect to the rate of dividend which the Company may assign to any ordinary or preference capital to be hereafter issued under the Act of 1904 should be made :

And whereas in view of the increased cost of labour and materials the powers of the Company of charging for water supplied by them have become insufficient and it is expedient that those powers should be increased :

And whereas it is expedient that the other provisions contained in this Act should be made : A.D. 1922.

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

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

1. This Act may for all purposes be cited as the Short title.
Newcastle and Gateshead Waterworks Act 1922.

2. The following Acts or parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act (namely) :— Incorporation of general Acts.

(1) The Waterworks Clauses Act 1847 (except the words in section 44 of that Act “with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner”);

(2) The Waterworks Clauses Act 1863.

3. The provisions of the Companies Clauses Consolidation Act 1845 (other than those with respect to the conversion of the borrowed money into capital) and of Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts shall so far as the same are applicable for the purposes of and are not varied by or inconsistent with the provisions of this Act extend and apply to the Company and to the additional moneys by this Act authorised to be raised and the other powers with reference to the raising of money by this Act conferred upon the Company. Application of certain provisions of Companies Clauses Acts.

4. In this Act the several words and expressions to which meanings are assigned by the Acts incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction And— Interpretation.

The expression “the Act of 1902” means the *Newcastle and Gateshead Waterworks Act 1902*;

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The expression "the Act of 1904" means the Newcastle and Gateshead Waterworks Act 1904; The expression "the limits of supply" means the limits within which the Company are for the time being authorised to supply water.

Increased power to borrow in respect of issued capital.

5. The Company may without being required to obtain a certificate of a justice under the fortieth section of the Companies Clauses Consolidation Act 1845 from time to time borrow on mortgage of their undertaking in respect of their issued capital and in addition to the moneys which they have before the passing of this Act borrowed in respect of such capital any sum or sums not exceeding in the whole six hundred and seventy thousand pounds being the amount necessary to increase their borrowing powers in respect of such capital to one-half of the amount thereof.

Cancellation of unexercised powers of raising money under Act of 1902.

6. As from the date of the passing of this Act all powers of raising money under the Act of 1902 by the creation and issue of capital or by borrowing or by the creation and issue of debenture stock which remain unexercised at that date shall cease to be exercisable.

Increased power to borrow in respect of capital authorised by Act of 1904.

7. Section 28 (Power to borrow in respect of additional capital authorised by this Act) of the Act of 1904 shall as respects such of the additional capital authorised by that Act as shall be issued after the passing of this Act be read and have effect as if the words "one-half" were substituted for the words "one-third" in that section.

Debenture stock.

8. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 as amended by subsequent Acts but notwithstanding anything therein contained the interest upon all debenture stock at any time after the passing of this Act created and issued by the Company shall rank *pari passu* with the interest upon all mortgages at any time after the passing of this Act granted by the Company and shall have priority over all principal moneys secured by such mortgages.

Existing mortgages to have priority.

9. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament and which shall be subsisting at the time of the passing of this Act shall during the continuance of such mortgages and subject

to the provisions of the Acts under which such mortgages were respectively granted have priority over any mortgages to be granted by virtue of this Act but nothing in this section shall affect the priority of the interest upon any debenture stock at any time created and issued by the Company. A.D. 1922.

10. All money raised or to be raised by the Company on mortgage or debenture stock under the provisions of any former Act relating to the Company or of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act. Provided always that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock nor shall anything in this section contained affect any claim for land taken used or occupied by the Company for the purposes of the Company's undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred upon the Company. Priority of money raised on mortgage or debenture stock over other claims.

11.—(1) Section 31 (For appointment of receiver) of the Act of 1904 is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings pending at the passing of this Act under the provisions of that section. As to receiver.

(2) The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and in order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

12.—(1) If the Company desire to raise by the issue of preference stock any capital which they are by the Act of 1904 authorised to raise or to issue any debenture stock under the powers of the Act of 1904 or this Act Issue of redeemable preference capital and debenture stock.

A.D. 1922. — they may create and issue such preference stock or debenture stock so as to be redeemable on such terms and conditions as may be specified in a resolution of the Company passed by a special meeting convened for the purpose.

(2) If it is so provided in the resolution the Company may—

(a) Call in and pay off the stock or any part thereof at any time before the fixed date of redemption; and

(b) Redeem the stock or any part thereof either by paying off the stock or by issuing to any stockholder subject to his consent other stock in substitution therefor and may for the purpose of providing money for paying off the stock or of providing substituted stock create and issue (subject as regards preference or ordinary stock to the provisions of the section of this Act of which the marginal note is "New provisions as to issue of capital by auction or tender") new preference stock or debenture stock (either redeemable or irredeemable) or ordinary stock or re-issue stock originally created and issued under this section. Provided that the creation and issue or re-issue under this subsection of any particular class of stock does not make the total nominal amount of such stock exceed the amount of that class of stock which the Company are for the time being authorised to create except during the necessary interval between the creation and issue of the new stock and the redemption of the old stock.

(3) The Company shall not redeem out of revenue any preference stock or debenture stock created under this section.

Receipt in case of persons not sui juris.

13. If any money is payable to a stockholder or mortgagee or debenture stockholder being a minor idiot lunatic or otherwise incapable of managing his affairs the receipt of the guardian or committee of his estate or other person or authority duly appointed to receive money on his behalf shall be a sufficient discharge to the Company.

Application of moneys raised under this Act.

14. All moneys which the Company are by this Act authorised to raise shall be applied only to the general purposes of the undertaking of the Company

being in all cases purposes to which capital is properly applicable. A.D. 1922.

15. Notwithstanding anything contained in section 21 (Limit of dividend on new capital) of the Act of 1904 the prescribed rate of dividend on any preference or ordinary stock issued by the Company after the passing of this Act under the powers of the Act of 1904 shall for the purposes of section 75 of the Waterworks Clauses Act 1847 and of section 13 of the Companies Clauses Act 1863 be— Amendment of section 21 of Act of 1904.

- (a) in the case of preference stock the rate of six per centum per annum; and
- (b) in the case of ordinary stock the rate of seven per centum per annum;

or in each case such other rate as the Minister of Health may on the application of the Company from time to time authorise.

16. The following provisions of the Act of 1904 are hereby repealed (that is to say):— New provisions as to issue of capital by auction or tender.

Section 23 (New stock to be offered by auction or tender);

Section 24 (Time for paying up stock sold by auction);

Section 25 (Notice to be given as to sale &c. of stock); and

Section 26 (Stock not sold by auction or tender to be offered to shareholders);

and in lieu thereof the following provisions shall have effect (that is to say):—

(1) All stock created after the passing of this Act under the powers of the Act of 1904 shall be issued in accordance with the provisions of this section ;

(2) All stock so to be issued shall be offered for sale by public auction or tender in such manner at such times and subject to such conditions of sale as the Company shall from time to time determine Provided as follows:—

(a) Notice of the intended sale shall be given in writing to the town clerks of Newcastle-upon-Tyne Gateshead and Wallsend and to the clerk to the urban district council

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of each urban district wholly or partly within the limits of supply and to the secretary of the London Stock Exchange at least fourteen days before the day of auction or the last day for the reception of tenders as the case may be and shall also be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the said limits;

(b) A reserve price shall be fixed and notice thereof shall be sent by the Company in a sealed letter to be received by the Board of Trade not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be;

(c) No lot offered for sale shall comprise stock of greater nominal value than one hundred pounds;

(d) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum and in the case of sale by auction a bid shall not be recognised unless it is in advance of the last preceding bid;

(e) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Company within three months after the date of the auction or of the acceptance of the tender as the case may be;

- (3) Any stock which has been so offered for sale and is not sold may be offered at the reserve price to the holders of ordinary and preference stock of the Company in accordance with the provisions of sections 18 19 and 20 of the Companies Clauses Act 1863 and to the employees of the Company and to the consumers of water supplied by the Company in such proportions as the Company may think fit or to one or more of these classes of persons only. Provided in the case of an offer to holders of stock that if the aggregate amount of stock applied for shall exceed the aggregate amount so offered as aforesaid the same shall be allotted to and distributed amongst the applicants as nearly

as may be in proportion to the amounts applied for by them respectively; A.D. 1922.

- (4) Any stock which has been offered for sale in accordance with subsection (2) or with subsections (2) and (3) and is not sold shall be again offered for sale by public auction or by tender in accordance with the provisions of this section and any such stock then remaining unsold may be otherwise disposed of at such price and in such manner as the directors may determine for the purpose of realising the best price obtainable;
- (5) As soon as possible after the conclusion of the sale or sales the Company shall send a report thereof to the Board of Trade stating the total amount of the stock sold the total amount obtained as premium (if any) and the highest and lowest prices obtained for the stock.

17. From and after the thirty-first day of July one thousand nine hundred and twenty-two the following provisions of the following Acts relating to the Company shall be repealed except for the purpose of recovering rates for water supplied prior to that date namely:—

Repeal of provisions as to rates for supply of water.

Sections 81 (Rates at which the Company are to supply water) 82 (Limiting charge for several tenements forming part of one dwelling-house) and 83 (Limiting charge for waterclosets in small tenements) of the Newcastle and Gateshead Waterworks Act 1863; and

Section 32 (Charge for waterclosets and baths) of the Newcastle and Gateshead Waterworks Act 1866.

18.—(1) From and after the thirtyfirst day of July one thousand nine hundred and twenty-two the following provisions shall have effect (that is to say):—

Rates for supply of water for domestic purposes.

In respect of every dwelling-house or part of a dwelling-house supplied by the Company with water for domestic purposes there shall be paid to the Company in respect of such supply rates not

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exceeding the rates per annum hereinafter specified (that is to say) :—

Where the annual rack rent or value of the premises so supplied with water does not exceed twenty-five pounds eight per centum of such annual rack-rent or value;

Where such annual rack-rent or value exceeds twenty-five pounds but does not exceed fifty pounds seven per centum of such annual rack-rent or value;

Where such annual rack-rent or value exceeds fifty pounds but does not exceed seventy-five pounds six per centum of such annual rack-rent or value;

Where such annual rack-rent or value exceeds seventy-five pounds five per centum of such annual rack-rent or value :

Provided that the Company shall not be required to supply any premises with water for a less sum than twelve shillings per annum :

Provided also that nothing in this section shall entitle the Company in any case to demand for the water rate for any house or part of a house included in any division of the foregoing scale a greater sum than they would be entitled to demand if the house or part thereof were of just sufficient annual rack-rent or value to bring it within the next division of the said scale relating to premises of a higher annual rack-rent or value whereon a lower rate per centum is chargeable.

(2) In addition to the foregoing charges the Company may charge in respect of every watercloset beyond the first (for which no additional charge shall be made) on any premises within the limits of supply a sum not exceeding ten shillings per annum and for every fixed bath capable of containing not more than fifty gallons a sum not exceeding ten shillings per annum and for every fixed bath capable of containing more than fifty gallons such sum as the Company may think fit such additional sum to be paid quarterly in advance and to be recoverable in all respects with and as the water rate.

Revision of rates.

19. In the event of the Minister of Health being satisfied that the cost of labour and materials or other circumstances affecting the undertaking of the Company

have substantially altered he may if he thinks fit on the application of the Company or of a local authority having jurisdiction within the limits of supply made at any time after the expiration of three years from the passing of this Act by order vary either by way of increase or decrease the rates for the supply of water by this Act authorised :

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Provided that the rates prescribed by any such order shall be of such respective amounts as to provide (after paying all proper expenses of and in connection with the working management and maintenance of the undertaking of the Company and making provision for depreciation and paying all other costs charges and expenses (if any) properly chargeable to revenue) a reasonable return on the capital of the Company :

Provided also that the rates for the time being in force may in the like event be varied in like manner at any time after but not earlier than the expiration of any or every period of five years after they were last altered.

20. The provisions of the Acts of or relating to the Company with respect to the payment and recovery of water rates and the remedies of the Company in relation to such recovery shall extend and apply to the rates for the time being payable to the Company under the authority of this Act.

As to payment and recovery of rates.

21.—(1) Where a house or part of a house supplied with water is let to monthly tenants or tenants holding for any period less than one month the owner instead of the occupier shall if the Company so determine pay the rate for the supply but the rate may be recovered from the occupier and may if the occupier be not himself liable therefor under any lease or agreement be deducted by him from the rent from time to time due from him to the owner Provided that no greater sum shall be recovered at any time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

Rates payable by owners of small houses.

(2) The provisions of section 73 of the Waterworks Clauses Act 1847 shall mutatis mutandis extend and apply to any payments made under the provisions of this section by the owner of any house or part of a house and as if such first-mentioned provisions applied in the case

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Supply to
houses
partly used
for trade
&c.

22. The Company shall not be bound to supply with water otherwise than by measure (a) any building used by an occupier as a dwelling house whereof any part is used by the same occupier for any trade or manufacturing purposes for which water is required or (b) any workhouse public institution hospital asylum (whether public or private) sanatorium club hotel public-house or inn or (c) any boarding house capable of accommodating twelve or more persons or (d) any school not maintained by the local education authority Provided that the sum to be paid for a supply by measure to any such building as is mentioned in this section shall not be less than the sum which would be chargeable by the Company for a supply of water furnished to the occupier of such building for domestic purposes at the rates mentioned in the section of this Act of which the marginal note is "Rates for supply of water for domestic purposes."

Application
of section 35
of Water-
works Clauses
Act 1847.

23. Section 35 of the Waterworks Clauses Act 1847 in its application to the Company shall be read and construed as if the words "one-seventh part" were substituted therein for the words "one-tenth part."

Guarantees
by district
councils.

24.—(1) Any urban or rural district council the district under whose jurisdiction is wholly or partly within the limits of supply may give and enter into any guarantee or contract for securing payment to the Company of such periodical or other sum or sums of money at such time or times in such manner and subject to such stipulations as may be agreed by and between such council and the Company for the purpose of or with respect to the providing or laying down by the Company of any main or pipe or works for the supply of water within any part of such district which is within the limits of supply.

(2) The giving of such guarantee and the performance of any contract in relation thereto shall be deemed to be a purpose for which under the provisions of any general Act relating to the powers of such council they may incur expenditure and any such council may raise any money which may become payable to the Company under this section in like manner as money may be raised under the provisions of any such general Act.

25. Every person who shall wilfully (without the consent of the Company) or negligently close or shut off any valve cock or other work or apparatus belonging to the Company whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Company) be liable on conviction to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any damage by them sustained. Provided that this section shall not apply to a consumer closing a valve fixed on his communication pipe.

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Penalty for closing valves and apparatus.

26. Any person being the owner or occupier of any house or building or part of a house or building or premises to or in respect of which he is not for the time being entitled to a supply or the continuance of a supply of water by the Company who shall without the authority of the Company turn on any valve cock or other work or apparatus attached to any service main or pipe connected with any main of the Company and provided or available for the purpose of affording such supply shall be deemed to commit an offence under section 60 of the Waterworks Clauses Act 1847 and the said section shall extend and apply accordingly.

Penalty for interfering with sluices &c.

27. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be necessary after the passing of this Act to authenticate the register of the stockholders of the Company by affixing the common seal of the Company to such register.

As to stockholders' register.

28. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary and auditors.

Determination of remuneration of secretary and auditors.

29. Any notice to be served by the Company on a person supplied with water shall be sufficiently authenticated by the signature of the secretary or other officer of the Company for the time being authorised in writing by the directors being affixed thereto in writing or in print or by a stamp or if it be a notice to pay any charge in respect of a supply of water by the name either of the secretary or of such other officer as aforesaid being affixed thereto as aforesaid and any such notice may

Authentication and service of notices by Company.

A.D. 1922. be served on such person either personally or by sending the same through the post by a prepaid letter addressed to him by name at his last known or usual place of abode or of business or by delivering the same to some inmate at his last known or usual place of abode or business or to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after proper inquiry unknown it shall in the case of any notice not being a notice to pay any charge be sufficient to affix such notice or a copy thereof upon some conspicuous part of such premises.

Judges not disqualified. **30.** A judge of any court or a justice shall not be disqualified from acting in the execution of any Act or Order for the time being relating to the Company by reason of his being liable to any water rate.

Contents of summons &c. **31.** Where the payment of more than one sum by any person is due under any Act or Order for the time being relating to the Company any summons or warrant issued for the purposes of any of those Acts or Orders in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

Recovery of demands. **32.** Proceedings for the recovery of any demand made under the authority of any Act or Order for the time being relating to the Company whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court provided that the demand does not exceed the amount recoverable in that court in a personal action.

Repeal of certain provisions of existing Acts. **33.** The following enactments are hereby repealed (that is to say):—

Section 38 (Several names in one warrant) of the Newcastle and Gateshead Waterworks Act 1866 ”;

Section 33 (Recovery of sums due) of the Newcastle and Gateshead Waterworks Act 1870;

Section 48 (Recovery of demands under fifty pounds) of the Act of 1902 ; and

Section 35 (Recovery of demands) of the Act of 1904.

34. All costs charges and expenses of the Company of A.D. 1922.
and incident to the preparing for obtaining and passing Costs of
of this Act or otherwise in relation thereto shall be paid Act.
by the Company and may in whole or in part be charged
against revenue.

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