CHAPTER cxxiii.

An Act to authorise the Lord Provost, Magistrates and Town Council of the Royal Burgh and City of Aberdeen to construct additional Waterworks; and for other purposes. [22nd July 1885.]

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WHEREAS by the Aberdeen Police and Waterworks Act, 1862 (herein-after called "the firstly recited Act"), a body of commissioners of police was established in the city of Aberdeen, and provisions were made and powers conferred with respect to the supply of water to the city: 25 & 26 Vict. c. 203.

And whereas by the General Police and Improvement (Scotland) Supplemental Act, 1866, and by the Aberdeen Police and Waterworks Amendment Act, 1867 (herein-after called "the Act of 1867"), the firstly recited Act was in certain respects amended: 29 & 30 Vict. c. 93. 30 Vict. c. 51.

And whereas by the Aberdeen Municipality Extension Act, 1871 (herein-after called "the secondly recited Act"), the municipal boundaries of the royal burgh and city of Aberdeen (herein-after called "the city") were extended and defined, and the powers of the commissioners of police, acting under and in virtue of the firstly recited Act, and the Acts amending the same, were transferred to and vested in the Town Council, and the provisions of those Acts, or some of them, were extended and made to apply to the city, as extended and defined by the Act under recital: 34 & 35 Vict. c. 141.

And whereas by the Aberdeen Corporation Act, 1881 (herein-after called "the thirdly recited Act"), further powers were conferred on the Town Council with reference, among other purposes, to their water undertaking: 44 & 45 Vict. c. 73.

And whereas by the Aberdeen Extension and Improvement Act, 1883 (herein-after called "the fourthly recited Act"), the municipal boundaries of the city were further extended, and the powers of the Town Council under and in virtue of the recited Acts, and the provisions of those Acts, or some of them, were extended and made 46 & 47 Vict. c. 60.

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to apply to the city, as extended and defined by the Act under recital:

And whereas by the firstly recited Act the powers thereby conferred of taking water from the River Dee are limited to six millions of gallons per day; and it is expedient, on account of the large and rapidly increasing population and trade of the city, that the Town Council should be authorised to take an additional quantity of water from the River Dee, and to construct and maintain the additional reservoirs, conduits and works herein-after described:

And whereas it is expedient that the Town Council should be authorised to raise further money to defray the expense of the said works and for the general purposes of their water undertaking, and that their borrowing powers should be enlarged:

And whereas it is expedient that the powers of the Town Council, with respect to the levying of water rates, assessments and charges, should be amended and enlarged:

And whereas plans and sections showing the lines and levels of the reservoirs, conduits and other works authorised by this Act, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required, or which may be taken for the purposes or under the powers of this Act, were duly deposited with the principal sheriff clerks of the counties of Aberdeen and Kincardine, and are herein-after respectively referred to as the deposited plans, sections and books of reference:

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

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

Short title.

1. This Act may be cited as the Aberdeen Corporation Water Act, 1885.

Division of Act into parts.

2. This Act is divided into parts, as follows:—

Part I.—Preliminary.
Part II.—New works and lands.
Part III.—Water supply.
Part IV.—Rates and assessments.
Part V.—Additional borrowing powers.
Part VI.—Miscellaneous.

Part I.—Preliminary.

When Act to take effect.

3. This Act shall come into operation and take effect on and from the first day of August one thousand eight hundred and eighty-five, except as regards the provisions contained in Part IV. hereof, intituled "Rates and Assessments," and those provisions shall come into operation and take effect on and from the fifteenth day of May, one thousand eight hundred and eighty-six.

Incorporation of Acts.

4. The Acts and enactments following, so far as they are applicable to the purposes of and are not varied by or inconsistent with this Act, are incorporated with and form part of this Act, that is to say:—

The Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860;

The provisions of the Railways Clauses Consolidation (Scotland) Act, 1845, with respect to roads and to the temporary occupation of lands near the railway during the construction thereof: Provided nevertheless that those provisions shall be read so as to apply only to the construction of the reservoirs by this Act authorised, and the works immediately connected therewith, and as if such reservoirs and works were therein referred to, instead of "the railway," and as if the boundaries of the said reservoirs and works were therein mentioned, instead of "the centre of the railway," and the prescribed limits shall be two hundred yards from the margin of the intended reservoirs respectively;

The clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the Town Council, except sections eighty-four, eighty-five, eighty-six and eighty-seven;

The Waterworks Clauses Acts, 1847 and 1863, except the provisions of the Waterworks Clauses Act, 1847, with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit.

Same meanings to words in incorporated Acts and this Act.

5. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith 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 the expression "the special Act" means this Act: the expressions "the promoters of the undertaking," "the commissioners," and the "company" mean the Town Council; and the expression "the undertaking" means the water undertaking authorised by the recited Acts and this Act.

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Interpretation of terms.

6. In this Act the following words and expressions where they hereafter occur, have the meanings hereby assigned to them :—

The word "person" includes trustees, corporations and companies;

The expression "the city" means the royal burgh and city of Aberdeen within the boundary and limits described and defined in the fourthly recited Act;

The expression "the Town Council" means the lord provost, magistrates and town council of the city for the time being;

The expressions "the water department," "the water undertaking," mean the water undertaking authorised by the recited Acts and this Act;

The expression "the sheriff" means the sheriff of Aberdeen, Kincardine and Banff, and includes sheriffs substitute;

The expression "the road trustees" means the trustees appointed and acting under the Aberdeenshire Roads Act, 1865, for the Sixth or Aberdeen district of the county of Aberdeen;

The expression "lands and heritages" has the same meaning as is assigned to that expression in the Valuation of Lands (Scotland) Act, 17 and 18 Victoria, chapter 91; and the expression "valuation roll" means the valuation roll for the city made up under the authority of the said Act, or any other Public General Act in force for the time for the valuation of lands and heritages in Scotland;

The word "owner" used with reference to any lands and heritages in respect of which any assessment is to be levied under this Act, includes joint owner, fiar, liferenter, or other person in the actual possession or receipt of the rent of such lands and heritages, and the factor, agent or commissioner of such persons, or any of them, or any other person who shall intromit with or receive the rents.

Part II.—New Works and Lands.

Power to construct works.

7. Subject to the provisions of this Act the Town Council may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the reservoirs, conduits, and other works and conveniences connected therewith, and the new road or diversion of road herein-after described (but subject always to any alterations in the levels of the said new road which may be agreed upon between the Town Council and the road trustees), and may enter upon, take and use such of the lands delineated on the deposited plans, and described in the deposited books of reference,

as may be required for that purpose. The works authorised by this Act are :—

(1.) A service reservoir (marked "Reservoir No. 1" on the deposited plans), in the parish of Banchory Devenick and county of Aberdeen, partly in a field on the farm of Brae, belonging or reputed to belong to James Collie, and occupied by John Booth, and numbered 472 on the published Ordnance map of the parish of Banchory Devenick (scale 25·344 inches to a mile), partly on the site of the existing road leading from Aberdeen to Cults, and formerly known as the Deeside turnpike road (herein-after referred to as "the Deeside Road"), partly on the site of the existing private road or access to the said farm of Brae, and partly on the ground attached to the existing reservoir at Mannofield, belonging to the Town Council, which service reservoir will be of a circular form, and three hundred and seventy feet or thereabouts internal diameter, and the centre of which reservoir will be eighty-five yards or thereabouts north of the farmhouse of Brae ;

(2.) A service reservoir (marked "Reservoir No. 2" on the deposited plans), in the parish of Banchory Devenick and county of Aberdeen, partly in a field on the said farm of Brae, belonging or reputed to belong to the said James Collie, and occupied by the said John Booth, and numbered 478 on the said published Ordnance map of the parish of Banchory Devenick, and partly on the site of the Deeside Road, which reservoir will be of a circular form, and three hundred and seventy feet or thereabouts internal diameter, and the centre of which reservoir will be one hundred and thirty-five yards or thereabouts west of the said farmhouse of Brae ;

(3.) A diversion of the Deeside Road, commencing therein at a point forty yards or thereabouts (measuring along the road), westward from the second milestone from Aberdeen, on that road, and terminating by a junction with the said road, at a point four hundred yards or thereabouts (measuring along the road), westward from the point herein-before described as the point of commencement of the diversion, which diversion will be situate in the parish of Banchory Devenick and county of Aberdeen ;

(4.) A service reservoir (marked "Reservoir No. 3" on the deposited plans), in the parish of Banchory Devenick and county of Aberdeen, in a field on the farm of Slopefield, belonging or reputed to belong to John Cardno Couper, and occupied by James Davidson, and numbered 328 on the said published Ordnance map of the parish of Banchory Devenick,

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which reservoir will be of a circular form, and two hundred and seventy feet or thereabouts internal diameter, and the centre of which reservoir will be two hundred and twenty-five yards or thereabouts north of the dwelling-house of Enfield;

(5.) A service reservoir (marked "Reservoir No. 4" on the deposited plans), in the parish of Banchory Devenick and county of Aberdeen, in the said field on the said farm of Slopefield, belonging or reputed to belong to the said John Cardno Couper, and occupied by the said James Davidson, and numbered 328 on the said published Ordnance map of the parish of Banchory Devenick, which reservoir will be of a circular form, and two hundred and seventy feet or thereabouts internal diameter, and the centre of which reservoir will be three hundred and fifteen yards or thereabouts north of the said dwelling-house of Enfield;

(6.) A conduit or line of pipes, commencing at the pumping station at present in course of construction for the Town Council at Cults, adjoining Abbotsville House, proceeding thence north-eastward to the western extremity of the road which separates the properties of Wellwood and Woodlands, thence eastwards along the last-mentioned road to the road which separates the properties of Woodlands and Enfield, thence northward along the last-mentioned road to the road which leads from Craigton to Mannofield (commonly known and herein-after referred to as the "Craigton Road"), thence eastward along the Craigton Road to the farmhouse of Springbank, thence northward along the road leading from Braeside, past Beechhill (commonly known and herein-after referred to as the "Pitfodels Road") to the Countesswells Road, and terminating at the point of intersection of these two last-mentioned roads by a junction with the existing mains of the Town Council, which conduit or line of pipes will be situate in the parishes of Banchory Devenick and Old Machar, and county of Aberdeen;

(7.) A conduit or line of pipes, commencing by a junction with the last-mentioned conduit (No. 6), at the point of intersection of the Craigton Road and Pitfodels Road at Springbank, thence proceeding southward along the Pitfodels Road to the Deeside Road, thence north-eastward along the last-mentioned road for a distance of one hundred and fifty yards or thereabouts, and terminating by a junction with the existing aqueduct or conduit of the Town Council leading from Cairnton to Aberdeen, which conduit or line of pipes will be wholly situate in the parish of Banchory Devenick and county of Aberdeen;

(8.) The inlet and outlet pipes after mentioned, wholly situate in the parish of Banchory Devenick and county of Aberdeen, viz. :—

(*a*) An inlet pipe, commencing by a junction with the said aqueduct or conduit leading from Cairnton to Aberdeen, at a point three hundred and sixty-five yards or thereabouts westward from the second milestone before referred to on the Deeside Road, and terminating by a junction with the said Reservoir No. 2 ;

(*b*) An inlet pipe, commencing by a junction with the said aqueduct or conduit at a point two hundred and forty yards or thereabouts westward from the said second milestone, and terminating by a junction with the said Reservoir No. 1 ;

(*c*) An outlet pipe, commencing in the said Reservoir No. 2, at a point seventy yards or thereabouts west from the said farmhouse of Brae, thence proceeding in a north-easterly direction to the east corner of the ground attached to the said existing reservoir at Mannofield, thence northward along the road leading from the railway bridge at Auchinyell to the Deeside Road, and terminating in the last-mentioned road by a junction with the existing mains of the Town Council, at a point forty yards or thereabouts westwards from the said second milestone ;

(*d*) An outlet pipe, commencing in the said Reservoir No. 1, at a point eighty yards or thereabouts north of the said farmhouse of Brae, proceeding thence in an easterly direction for a distance of twenty yards or thereabouts, and terminating by a junction with the last-mentioned outlet pipe (*c*) ;

(*e*) An inlet pipe, commencing by a junction with the said conduit (No. 6) at a point in the Craigton Road one hundred and forty-five yards or thereabouts north from the said dwelling-house of Enfield, and terminating by a junction with the said Reservoir No. 4, and also having a branch inlet pipe communicating with the said Reservoir No. 3 ;

(*f*) An outlet pipe, commencing by a junction with the said Reservoir No. 4, and terminating by a junction with the said conduit (No. 6) at a point in the Craigton Road two hundred yards or thereabouts north of the said dwelling-house of Enfield, and also having a branch outlet pipe communicating with the said Reservoir No. 3 ;

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(9.) An aqueduct, conduit or line of pipes, commencing by a junction with the existing pipe which conveys the water from the River Dee to the intake well at Cairnton, constructed under the authority of the firstly recited Act, at a point in the said pipe eight yards or thereabouts south of the said intake well, thence proceeding westward along the north or left bank of the River Dee, and terminating at a point in the channel or bed of the said river one hundred and twenty-five yards or thereabouts west of the said intake well (measuring in a straight line), which aqueduct, conduit or line of pipes will be situate in the parishes of Banchory Ternan, and Strachan, or one of them, and county of Kincardine.

Limits of lateral deviation. Limits of vertical deviation.

8. In the construction of the works by this Act authorised, the Town Council may deviate laterally from the lines thereof, as shown on the deposited plans to the extent of the limits of lateral deviation marked thereon, and vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and five feet downwards: Provided always that the Town Council shall not in the exercise of the powers of lateral deviation hereby given construct any embankment or wall of the said reservoirs of a greater height above the general surface of the ground than the height of the corresponding embankment or wall as shown on the deposited sections, and two feet in addition.

Power to take easements, &c. by agreement.

9. The Town Council may take by agreement, and all persons empowered by the Lands Clauses Consolidation (Scotland) Act, 1845, to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act, and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Town Council any easement or servitude, right or privilege, required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges, or feu-duties, so far as the same are applicable in this behalf, shall extend and apply to such grants, and to such easements or servitudes, rights and privileges as aforesaid respectively.

Purchase of additional lands.

10. In addition to the lands which the Town Council are by this Act authorised to take compulsorily, they may, from time to time, by agreement, purchase or otherwise acquire any lands and any interest, easement, right of user, power or privilege in, over, or affecting any lands which they think expedient for any of the purposes of this Act, not exceeding in the whole ten acres: Provided that no buildings shall be erected upon the lands so purchased or acquired except buildings necessary for the purposes of the water undertaking.

Power to take additional water from River Dee.

11. Notwithstanding anything contained in the firstly recited Act, the Town Council may, for the purposes of the water undertaking, take, appropriate, divert, and use an additional quantity of water from the River Dee, not exceeding two millions of gallons in any one day, reckoning from midnight to midnight, in addition to the six millions of gallons authorised to be taken by the firstly recited Act.

Erection of grating at mouth of conduit.

12. The Town Council shall erect and maintain at or near the mouth of the aqueduct, line of pipes or conduit at Cairnton, to be constructed under the authority of this Act, a proper and sufficient grating or fender to prevent parr or smolts from entering the same; and the provisions contained in sections three hundred and eighty-eight to three hundred and ninety-two, both inclusive, of the firstly recited Act, shall (so far as the same are or may be applicable, and not inconsistent with the express provisions of this Act) extend and apply to the aqueduct, line of pipes or conduit at Cairnton, to be constructed under the authority of this Act.

New works to form part of water undertaking.

13. Subject to the provisions of this Act, the works to be constructed under the authority of this Act shall for all purposes whatsoever be deemed part of the waterworks belonging to the Town Council and be comprised in the water undertaking, and the provisions contained in the firstly recited Act for preventing accidents from reservoirs, and for the protection of turnpike or commutation roads, shall apply to the reservoirs and other works by this Act authorised.

On completion of new road, site of existing road so far as superseded to vest in Town Council.

14. So soon as the diversion of the Deeside Road by this Act authorised is formed and ready for traffic, the Town Council may stop up and extinguish all rights of way over the portion of the existing road between the commencement and termination of such diversion, and may appropriate for the purposes of this Act the site of so much of the said road as may be so stopped up, so far as the same is bounded on both sides by lands of the Town Council: Provided always that the fact of the said diverted road being ready for traffic shall be left to the determination of the surveyor of the road trustees and the engineer of the Town Council, and in the event of their differing in opinion to the determination of the sheriff: Provided also, that until a certificate of the completion of the said diverted road is granted by the sheriff as herein-after mentioned, the same shall be upheld and maintained in good order and thoroughly efficient condition, by and at the expense of the Town Council.

Maintenance of diverted road.

15. The Town Council shall, so soon as the said diverted road is ready for traffic, make an application to the sheriff to certify as

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to the completion of the same, and the road trustees shall be made parties to such application. The said diverted road, when its completion is so certified (of which completion such certificate shall be conclusive evidence), shall become, and the same shall thenceforth be part of the Deeside Road, and shall be upheld and maintained by the road trustees.

Period for compulsory purchase of lands.

16. The powers of the Town Council for compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of five years from the commencement of this Act.

Period for completing works.

17. If the works by this Act authorised are not completed within ten years from the commencement of this Act, then on the expiration of that period the powers by this Act granted to the Town Council for making and completing those works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Restriction on taking houses of labouring class.

18. The Town Council shall not, under the powers of this Act, without the consent of Her Majesty's Secretary of State for the Home Department, purchase or acquire in any district, within the meaning of the Public Health (Scotland) Act, 1867, ten or more houses which, after the passing of this Act, have been, or on the fifteenth day of December last were, occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

Defining labouring class.

For the purposes of this section the expression "labouring class" includes mechanics, artisans, labourers and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons other than domestic servants, whose income does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them.

Part III.—Water Supply.

Supply of water for domestic purposes.

19. The Town Council shall, at the request of the owner or occupier of any house or part of a house occupied as a separate dwelling, situated within the city, furnish to such owner or occupier within such dwelling-house or part of a house occupied as a separate dwelling, by means of communication pipes and other necessary and proper apparatus, to be provided, laid down and maintained by and at the cost of such persons, a sufficient supply of water for domestic purposes, including a supply for any private watercloset or closets and private fixed bath or baths within such dwelling: Provided that no person shall be entitled to demand, nor shall the

Town Council be bound to furnish, such supply of water unless a water pipe of the Town Council shall have been laid within thirty feet of the outer wall, fence or boundary of such dwelling-house, or in the case of tenements situated in a private close or place unless a water pipe of the Town Council shall have been laid within thirty feet of the entrance to such close or place, or unless the Town Council shall have become bound to lay such pipe under a requisition and agreement made and executed in the manner and to the extent required by section thirty-five of the Waterworks Clauses Act, 1847. The supply for domestic purposes by this section required shall be, and continue to be, sufficiently provided before the Town Council supply water for any other purpose.

Town Council may supply water for other than domestic purposes.

20. The Town Council may furnish to any person within the city a supply of water for steam-engines or railway purposes, or for shipping, or for warming or ventilating any premises other than dwelling-houses, or for working any machine or apparatus, or for cattle, or for horses, or for washing carriages, where 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, business, or occupation, or for hotels, taverns, poorhouses, hospitals, prisons, barracks, schools, 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 fixed from time to time by the Town Council, and published by being exhibited in the office of the treasurer of police: Provided always, that as far as possible the rate for such supply of water shall be uniform to all persons in the same circumstances, and requiring the same extent of supply.

Provisions as to supply of water outside city.

21. The Town Council may, subject to the provisions of this Act, make and carry into effect contracts and agreements with any local authority, board, company, person or persons, for the supply of water by the Town Council beyond the city, and such supply may be furnished at such rates, upon such terms and conditions, and by measure or otherwise, as shall be agreed upon between the Town Council and the local authority, board, company, person or persons desiring the same.

Town Council may cause communication pipes to be joined to the mains.

22. Where any communication pipe is to be laid by any person the Town Council may, if they think proper, cause such communication pipe to be joined to the main pipes by a person appointed by them at the cost in every instance of the person requiring the pipe to be laid, and which cost shall be repaid to the Town Council before such person shall be entitled to a supply of water; and the bore of

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any communication pipe shall not exceed the limits which the Town Council may prescribe.

Town Council may make byelaws for preventing waste of water.

23. The Town Council may from time to time make such byelaws as they think necessary or expedient for the purpose of preventing waste or misuse of water, and among other things they may prescribe the size, nature and strength of the pipes, cocks, cisterns, and other apparatus to be used, and prohibit any arrangements, and the use of any pipes, cocks, cisterns, or other apparatus, which may tend to such waste or misuse.

Apparatus to be approved by the engineer of the Town Council.

24.—(1.) All the apparatus used or to be used for conveying water to the houses of the inhabitants and manufactories or other premises, supplied or to be supplied with water under the provisions of the recited Acts, or this Act, or in connexion therewith, shall be subject to the approval of the engineer to the Town Council; and in case of dispute beween the parties providing or using such apparatus and such engineer, such dispute shall be determined by the Town Council, whose decision shall be final.

Supply of water may be cut off if apparatus defective.

(2.) If the apparatus in any house, manufactory or premises be out of repair, or be so used or contrived as that the water supplied by the Town Council is or is likely to be wasted, misused, unduly consumed, or contaminated, the Town Council may (without prejudice to any other remedy in respect thereof) cut off, shut off, or lock up such apparatus, or the communication or service pipe leading thereto, and cease to give a supply of water to such house, manufactory or premises so long as the defect or cause of damage remains or is not remedied.

Owner or occupier to make good any defects in apparatus.

(3.) If any apparatus shall be out of order, the owner or occupier of the house or premises in or to which such apparatus is placed or attached shall be bound to repair and make good the same, and if such owner or occupier fail to make the requisite repairs within twenty-four hours after notice in writing requiring him so to do, the Town Council may, by their engineer, repair, renew and make water-tight all such apparatus, and the Town Council shall be entitled to recover from the owner or occupier so failing the cost of such repair or renewal.

Definition of apparatus.

(4.) For the purposes of this section the word "apparatus" means and includes pipe, cistern, bath, watercloset, ball-cock, stop-cock, valve, and other articles used in the supply or storing of water in houses, manufactories or premises, or in connexion therewith.

Penalty for wrongful use of water.

25. Every person who, not having agreed to be supplied with water by the Town Council, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to them, or from any pipe leading to or from any such reservoir, watercourse,

conduit, or pipe, or from any cistern or other like place containing water belonging to the Town Council, or supplied by them for the use of any consumer of such water, shall for every such offence be liable to a penalty not exceeding five pounds; and every person who, having agreed to be supplied with water by the Town Council, wrongfully takes or uses any water from any such reservoir, watercourse, conduit or pipe, or from any such pipe, cistern, or other like place, for any purpose other than the purpose for which he so agreed to be supplied, shall for every such offence be liable to a penalty not exceeding five pounds; and in any of the cases aforesaid the Town Council shall be entitled, in addition, to recover from any such person the amount of any loss, damage or injury sustained by them, by or in consequence of any such wrongful acts, in the same manner as damages are recoverable under the provisions of the firstly recited Act.

Penalty for taking water from public wells except for domestic use.

26. Every person who takes water from any of the public fountains or stand-pipes belonging to the Town Council for any purposes other than domestic shall, for every such offence, be liable to a penalty not exceeding five pounds.

Pipes not to be affixed to mains without consent of the Town Council.

27. It shall not be lawful for the owner or occupier of any house or premises supplied with water by the Town Council, without their written consent, to affix, or permit or suffer to be affixed, any tube or hose to any of the mains or pipes of the Town Council, or to any service pipe or apparatus of such owner or occupier, for the purpose of washing horses, carriages or other vehicles, windows, houses, or buildings, or for watering gardens, or washing pavements or roads, or for any other purpose; and any person who contravenes this enactment shall be guilty of an offence, and shall for every such offence forfeit and pay to the Town Council a penalty not exceeding five pounds.

Wells may be maintained for supply of ships.

28. For the purpose of the supply of ships, vessels or fishing boats with water, the Town Council may lay pipes and erect wells or fountains in convenient stations along the quays, and maintain the pipes and wells or fountains already laid or erected or to be laid or erected along the quays, and collect and recover such charge or payment for the water supplied to ships, vessels or fishing boats as to the Town Council shall from time to time seem to be just and reasonable, and the Town Council may make such byelaws for supplying ships, vessels or fishing boats with water as they think proper.

Penalty for taking water for ships except from such wells.

29. Every shipmaster or other person having the charge of any ship, vessel or fishing boat lying within the harbour of Aberdeen, and every other person who takes water for or to such ship, vessel

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or fishing boat, for the purpose of a voyage, from any of the wells or fountains belonging to the Town Council other than those specially set apart for the supply of ships, vessels or fishing boats, or contrary to such byelaws, shall for every such offence be liable to a penalty not exceeding five pounds.

Wells for the supply of ships may be let.

30. The Town Council may from time to time let by public auction or by private bargain for any period not exceeding three years, any well or fountain that may be set apart by the Town Council, for the supply of ships, vessels or fishing boats with water, on such terms and conditions as to the Town Council may appear reasonable, with power to the lessee to levy and collect such charges as the Town Council shall fix for water taken from such wells or fountains for the supply of ships, vessels or fishing boats as aforesaid.

Ships in Her Majesty's service exempted.

31. Nothing in this Act contained shall extend or be construed to extend to or affect any of Her Majesty's ships of war, or any ship, transport, or vessel employed in or upon Her Majesty's service, in the conveyance of any officers or soldiers, or any horses, arms, ammunition, or baggage belonging to them or any of them, or of any ordnance stores, or to any vessel in the service or employment of the Ordnance, Customs, or Excise, or of Her Majesty's Postmaster General.

Exceptions to constant supply and high pressure.

32. The Town Council shall not be required to supply water under a pressure sufficient to make it reach the top stories of the highest houses within the city in any case in which sufficient pressure cannot be afforded by gravitation from the reservoirs of the Town Council.

Certain provisions of Act of 1862 to apply.

33. The provisions and enactments contained in section one hundred and twenty-six, and Parts XXXII. and XXXIV. of the firstly-recited Act, intituled respectively "byelaws" and "jurisdiction of police court," shall apply to Part III. of this Act in the same manner and as fully, to all intents and purposes, as if such provisions and enactments were herein repeated and re-enacted.

Part IV.—Rates and Assessments.

Repeal of certain provisions of recited Acts.

34. The several provisions and enactments of the recited Acts specified in Schedule (A) to this Act are hereby repealed.

Town Council to estimate annual sums required.

35. The Town Council shall, and they are hereby authorised 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 the water department for and during the

year then current, and the interest of money borrowed by the Town Council for the purposes of that department, and the payment to the sinking fund, together with the expense of maintaining and managing or extending the works, and obtaining and providing and distributing supplies of water within the city, and the whole or such portion of the salaries, wages and other expenses of the treasurers, engineers, surveyors, clerks, collectors, or other officers or servants employed by the Town Council, as they shall think equitable and fair to charge against the water department, and all other charges and expenses chargeable against revenue.

Estimate to be considered, and domestic water rate imposed.

36. The estimate to be made up in manner before provided shall be submitted to and considered by the Town Council, at a meeting to be held as soon as conveniently may be after they shall have obtained a copy of the valuation roll for the year then current, and at such meeting, or any adjournment thereof, the Town Council may, and they are hereby authorised and required, in order to raise such a sum of money as, along with the public water rate after mentioned and other water revenues of the Town Council, shall be sufficient for the purposes aforesaid, annually to impose, 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 city, according to the yearly value thereof as entered in the valuation roll for the year then current: Provided always, that 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), they shall not be liable to be assessed in respect thereof for the domestic water rate, unless some pipe of the Town Council shall be laid down within thirty feet of the outer wall, fence, or boundary of the same: Provided further, that as regards the occupiers of tenements situate in a private close or place, they shall not be liable to be assessed in respect of such tenements for the said rate, unless some pipe of the Town Council shall be laid down within thirty feet of the entrance to such close or place.

Public water rate to be levied.

37. The Town Council may, and they are hereby authorised and required annually to impose, assess and levy a rate, to be called "The Public Water Rate," upon and from the owners of all lands and heritages within the city, according to the yearly value thereof, as entered in the valuation roll for the year then current, which rate shall not exceed one penny in the pound, on the rental or annual value of all such lands and heritages.

Reduction in valuation of certain lands

38. The annual value of the following lands or heritages shall, for the purposes of the public water rate, be held to be the nearest

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and heritages.

aggregate sum of pounds sterling to one fourth of the annual value thereof entered in the valuation roll, viz.:—

(1.) All lands and premises used exclusively as a railway constructed under the powers of any Act of Parliament for public conveyance, excepting the stations, depôts and buildings, which shall be assessable to the same extent as other lands and heritages within the city;

(2.) All the underground gas pipes, or underground works of any gas undertaking;

(3.) All woodland, arable, meadow, or pasture ground, or other ground used for agricultural purposes.

Water rates to be assessed from Whitsunday to Whitsunday.

39. The domestic water rate and the public water rate shall be assessed for the period from the term of Whitsunday in each year to the term of Whitsunday in the year following, and shall be payable at the offices of the Town Council on such day in each year as the Town Council shall appoint.

Recovery of water rates.

40. Sections one hundred and one to one hundred and seven, both inclusive, of the firstly recited Act, section one hundred and thirty-nine of the secondly recited Act, and sections thirty-four and thirty-seven of the thirdly recited Act, with respect to the levying, payment and recovery of assessments, shall (so far as the same are or may be applicable, and not inconsistent with the express provisions of this Act) extend and apply to the levying, payment and recovery of the domestic water rate and the public water rate.

Water rates to be deemed local taxation.

41. The domestic water rate, the public water rate, and other charges for the supply of water by this Act authorised, shall be deemed to be local taxation in the meaning of the fifth section of the Act 5 and 6 William IV., chapter 70.

Water rates to be regulated so as not to exceed expenses.

42. If in any year the revenue of the water department shall be more than sufficient for all the purposes to which it is applicable, the Town Council 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 a deficiency occurs in one year it shall be provided for in the estimate, and by assessment in the next year; and the Town Council 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 domestic water rate shall always be a rate consisting of an integral number of pence in the pound.

43. The rates and charges levied under the authority of this Act and the other income of the water department shall be applied in manner following, that is to say:— Application of rates.

First. In defraying the expenses of the management and maintenance of the water undertaking, including salaries and other payments to officers and servants, 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 water undertaking.

Second. In payment of the interest of money borrowed under the authority of the recited Acts and of this Act, in connexion with the water undertaking.

Third. In payment of the sum by the recited Acts and this Act directed to be set apart as a sinking fund in connexion with the water undertaking.

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

Part V.—Additional Borrowing Powers.

44. The Town Council may from time to time borrow on the security and credit of the domestic water rate and the public water rate, and the charges to be levied by them under the authority of this Act, for defraying the cost of the new reservoirs, conduits and other works by this Act authorised, any sums not exceeding in the whole eighty thousand pounds, in addition to the sum of two hundred thousand pounds authorised by the firstly recited Act, the Act of 1867, and the thirdly recited Act, to be borrowed for the purposes of the water department, and they may make and grant bonds or mortgages of such rates and charges for the money to be borrowed under the authority of this Act, and if after having borrowed the said sums, or any part thereof, the Town Council pay off the same except by means of the sinking fund as herein-after provided, they may again borrow the amount so paid off, and so from time to time. Further borrowing powers for water purposes.

45. Every bond or mortgage to be granted by the Town Council in connexion with the water undertaking shall be by deed, duly stamped, in which the consideration shall be truly stated, and may be in the form of the Schedule (B) to this Act, or to the like effect, and shall be subscribed by any two members of the Town Council and by the treasurer of police, and the respective mortgagees shall be entitled, one with another, to their respective proportions of the Form and execution of mortgages.

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rates and charges comprised in such mortgages respectively, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference, one above another, by reason of the priority of advancing such moneys, or of the dates of any such mortgages respectively. No member of the Town Council, or the treasurer of police, shall, by his subscription of any such bond or mortgage, or of any interest warrant relating thereto, be or be held to have rendered himself, individually or personally, liable for the payment of any money so borrowed, or any interest thereon, or of any sums whatsoever in respect thereof.

Mortgages may be accompanied with interest warrants.

46. The Town Council may issue, along with any such bond or mortgage, and during the period of any postponement of the term of payment thereof, interest warrants in the form of the Schedule (C) to this Act, or to the like effect, signed by the treasurer of police, for the periodical payment of the interest to become due on the principal sum thereby secured, during the period for which such bond or mortgage is intended to subsist; and the delivery to the treasurer of police, or to any person on his behalf, of any such interest warrant, duly stamped as a receipt, shall be a valid and sufficient discharge for the interest in respect of which the same was issued.

Transfers of mortgages.

47. Any person entitled to any such bond or mortgage may transfer his right and interest therein to any other person; and every such transfer shall be by deed, or by indorsation on the bond or mortgage, duly stamped, wherein the consideration shall be truly stated, and may be in the form of the Schedule (D) to this Act, or to the like effect.

Transmission of mortgages in case of bankruptcy.

48. If any such bond or mortgage be transmitted by reason of the bankruptcy of the person entitled thereto, there shall be produced to the Town Council official evidence of such bankruptcy, and of the vesting of the bankrupt estate in the trustee, official assignee, or other person to whom such estate shall be transferred.

Mortgages of rates to be personal estate.

49. All bonds or mortgages of the water rates and charges, and all moneys advanced and lent on the security of the water undertaking, shall be movable or personal estate, and transmissible as such, and shall not be of the nature of heritable or real estate.

Discharges of mortgages.

50. Any person entitled to any such bond or mortgage may discharge the same and his right and interest therein in favour of the Town Council, and every such discharge may be indorsed on such bond or mortgage, and may be according to the form contained in the Schedule (E) 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.

Sinking fund.

51. The Town Council shall and they are hereby required annually to set apart as a sinking fund from and out of the water rates and charges authorised to be levied by this Act, a sum not less than two pounds per centum upon all sums borrowed under the authority of this Act for the purposes of the water department, on the security of such water rates and charges, and such sinking fund shall be from time to time applied by the Town Council in paying off such borrowed money until the same be wholly paid off, and to no other purpose whatever.

Application to this Act of section one hundred and twenty-four of Act of 1871.

52. Section one hundred and twenty-four of the secondly recited Act, with respect to the mode of investing the sinking fund, shall be and is hereby made applicable to the sinking fund to be set apart as provided by this Act, in the same manner as if such sinking fund had been set apart under the authority of the said Act.

Power to borrow by way of cash credit for water purposes.

53. The Town Council may from time to time 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 Town Council to the extent of the sum which they are by this Act authorised to borrow for the purposes of the water department or any part thereof; and they may from time to time, by any bond or mortgage, assign the water rates and charges authorised to be levied by this Act as a security for the money advanced on such cash account or credit, together with interest for the same: Provided that the sum due and owing by the Town Council on such cash account or credit for the time, and the other moneys borrowed by them for the purposes of the water department under the provisions of this Act, shall never, when taken together, exceed the sum by this Act authorised to be borrowed for the purposes of the water department.

Appointment of judicial factor.

54. In the event of any principal money borrowed on any such bond or mortgage in connexion with the water undertaking, or any interest thereon, not being paid within one month after such payment is due, and demand thereof is made in writing, any person or persons holding singly or together any such mortgage or mortgages in arrear as to payment of interest to the amount of three hundred pounds, or as to principal to the amount of three thousand pounds, may render his or their security effectual by the appointment from time to time of a judicial factor, and the application for such appointment shall be made by summary petition to the court of

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session, or in time of vacation to the Lord Ordinary on the Bills, which appointment shall be made accordingly, unless before such application is advised the amount of such interest, or principal, as the case may be, with interest and expenses is paid, or it appears to the satisfaction of the court or Lord Ordinary that consignation thereof should, under the circumstances, be accepted in lieu of payment, and such consignation is made accordingly, and the interlocutor making such appointment shall not be subject to review or appeal.

Powers and duties of judicial factor, and continuance of factory.

55. The judicial factor to be appointed under this Act, on finding security in common form, shall exercise all the powers conferred by this Act on the Town Council for or in relation to the assessing, levying, and recovering of the water rates and charges, and the Town Council shall hand over to him all rate books and other books and documents necessary for that purpose, and after defraying the expenses of such application, levy, and recovery, the judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several persons entitled to payment thereof, and the judicial factory shall continue not only until all arrears of interest on mortgages of the said rates and charges, due at the date of his appointment, and all interest due on any of those sums, and any such interest becoming due during his continuance in office, with interest and expenses (including the expenses of the application for his appointment and of the execution of the purposes thereof), are paid, but also until any such interest which, though not due, becomes current during his continuance in office, and a sufficient sum to meet expenses is paid or is consigned in one of the banks in Scotland incorporated by Act of Parliament or Royal Charter, and on such payment or consignation the Town Council may apply for the recall of the appointment of the judicial factor to the court of session or Lord Ordinary as aforesaid, who may recall the same accordingly.

Saving priority of former bonds.

56. Nothing in this Act shall prejudice or affect any mortgage, bond, or other security granted under the provisions of the recited Acts, for the purposes of the water undertaking, or any of them, and existing at the time of the commencement of this Act, or any powers, rights or authorities of the persons entitled to any such mortgage, bond or security for recovering or enforcing payment thereof, or of the interest thereon, the rates and charges authorised to be taken or levied under this Act being with respect to such mortgages, bonds and securities deemed identical with the rates, rents and revenues authorised to be taken and levied for the water undertaking under the recited Acts.

Part VI.—Miscellaneous.

Amendment of section eighty-four of firstly recited Act.

57. Section eighty-four of the firstly recited Act shall be read and construed as if the words "so soon as conveniently may be after "the date" had been therein inserted, instead of the words "within "two months after the date."

Amendment of section forty-two of the Act of 1883.

58. Section forty-two of the fourthly recited Act shall be read and construed as if the words "section ninety" of the Lands Clauses Consolidation (Scotland) Act, 1845, had been therein inserted instead of the words "section ninety-two" of that Act.

Saving acts done, &c. under repealed clauses of recited Acts.

59. The repeal or amendment of any sections of the recited Acts which may be repealed or amended by this Act shall not affect anything duly done or suffered under any enactment hereby repealed or amended, or any right or liability acquired, accrued or incurred under any enactment hereby repealed or amended, or any rate or assessment made, or any security given under any enactment hereby repealed, or any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment hereby repealed, or any investigation, legal proceeding or remedy in respect of any such right, liability, security, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding and remedy may be carried on as if this Act had not been passed.

Costs of Act.

60. The costs, charges and expenses of and incident to the preparing for, obtaining and passing of this Act shall be paid by the Town Council out of the funds, assessments, rates, rents, charges and revenues of the water department under their control, or out of moneys borrowed under the authority of this Act and the recited Acts.

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SCHEDULES referred to in the foregoing Act.

SCHEDULE (A).

Sections of Acts repealed by this Act:—

Title of Act.	Sections (numbered inclusively) of Acts repealed.
1. The Aberdeen Police and Waterworks Act, 1862	410; 414; 416 to 423; 428 to 433; Schedules B and C
2. The Aberdeen Police and Waterworks Amendment Act, 1867	7; 80
3. The Aberdeen Municipality Extension Act, 1871	137
4. The Aberdeen Corporation Act, 1881 - -	29 (so far as it relates to the water department); 30 to 33

SCHEDULE (B).

Form of Mortgage.

Aberdeen Corporation Water.

Mortgage No.

By virtue of the Aberdeen Corporation Water Act, 1885, we, the Lord Provost, Magistrates and Town Council of the royal burgh and city of Aberdeen, in consideration of the principal sum of [*specify amount*] paid to us for the purposes of the water undertaking authorised by that Act and the Acts therein recited, by [*name and designation of mortgagee*] do hereby grant and assign to the said [*name of mortgagee*] and his executors, administrators and assignees [*or as the case may be*], such proportion of the domestic water rate and the public water rate and the charges to be levied by us under the authority of the said first-mentioned Act as the said sum of [*specify amount*] bears or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates and charges; 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 us 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 treasurer of police; and we, for and in respect of interest on the said principal sum to the date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum), shall pay the several sums contained in the [*state number*] interest warrants bearing the number and date hereof and delivered herewith, at the several times mentioned in such respective warrants, upon delivery to the treasurer of police of the same respectively, and such delivery shall be a sufficient receipt and discharge to us for the contents of such warrants. In witness whereof [*testing clause, according to the law of Scotland*].

SCHEDULE (C).

Form of Interest Warrant.

Aberdeen Corporation Water.

Mortgage No. , dated 18

Interest Warrant.

For pounds shillings and pence.

£ : :

Less Income Tax

£ : :

Payable on 18
at the

Treasurer of Police.

SCHEDULE (D).

Form of Transfer of Mortgage.

I [*name and designation of mortgagee*], in consideration of the sum of [*specify amount*] paid to me by [*name and designation of transferee*], do hereby transfer to the said [*name of transferee*], and his executors, administrators, and assignees [*or as the case may be*], a certain mortgage, number [*number of mortgage*], dated the [*date of mortgage*], made in my favour by the Lord Provost, Magistrates and Town Council of the royal burgh and city of Aberdeen, by virtue of the Aberdeen Corporation Water Act, 1885, in connexion with the water undertaking authorised by that Act and the Acts therein recited, for securing the sum of [*principal sum in mortgage*] [*or, if the transfer be by indorsement* the within mortgage] together with the interest thereon from and after the [*date from which transferee is to be entitled to the interest*], and all my right and interest

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in and to the principal money thereby secured and interest thereon as aforesaid, and in and to the rates and charges thereby assigned. In witness whereof [*testing clause, according to the law of Scotland*].

SCHEDULE (E).

Form of Discharge of Mortgage.

Received from the Town Council of Aberdeen, the sum of pounds, 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 , one thousand eight hundred and .

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