CHAPTER clxiv.

An Act for the better supplying with Water the Parliamentary Burgh of Cupar and places adjacent; and for other purposes. [30th July 1874.]

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WHEREAS "The General Police and Improvement (Scotland) Act, 1862," has been adopted by the Commissioners of Police of the burgh of Cupar, and is now in force within the said burgh: 25 & 26 Vict. c.101. (*Pub.*)

And whereas the present supply of water to the said burgh and places adjacent is insufficient, and it would be of great benefit were an ample supply provided:

And whereas it is expedient that such supply should be effected by, and placed under the control, regulation, and management of the provost, magistrates, and council of the said burgh for the time being as Commissioners of Police of the said burgh:

And whereas plans and sections showing the lines, situations, and levels of the 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 clerk for the county of Fife, at his office in Cupar, 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 Cupar Water Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation (Scotland) Act, 1845;" "The Lands Clauses Consolidation Acts Amendment Act, 1860;" the provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the Commissioners

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(except sections 84, 86, and 87); "The Waterworks Clauses Act, 1847," except the clauses and provisions with respect to the communication pipes to be laid by the undertakers, and with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, and also except clauses 68, 70, 71, and 72; "The Waterworks Clauses Act, 1863;" and the clauses and provisions of "The Railways Clauses Consolidation (Scotland) Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof, are (except where expressly varied by or inconsistent with this Act) incorporated with and form part of this Act: Provided as regards the said last-mentioned Act that the said clauses and provisions shall be read as if "the works" were therein mentioned instead of "the railway," and "the boundaries of the works" instead of "the centre of the railway," and "the Commissioners" instead of "the Company."

Interpretation of terms.

3. 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; the expression "the burgh" means the burgh of Cupar within the limits thereof as fixed and defined by the Public Act 2nd and 3rd William IV., chapter 65; the expression "the Police Acts" means the recited Act and the several Acts passed amending the same, or any other public or local Police Act or Acts in force within the burgh for the time being; the expression "the Commissioners" means the Commissioners of Police of the burgh of Cupar acting under the Police Acts; the expression "lands and heritages" has the same meaning as is assigned to that expression in the Public Act 17th and 18th Victoria, chapter 91, intituled "An Act for the valuation of lands and heritages in Scotland," and any Act amending the same which may be in force for the time.

Limits of Act.

4. The limits of this Act shall comprise and include the burgh, and also the public road called the Cupar Muir Road leading from Cupar by the Fife and Kinross District Asylum to Springfield station for a distance of one mile and three quarters of a mile measuring along the said road, and also the turnpike road leading from Cupar to Kirkcaldy for a distance of six furlongs measuring along the said road, and also the turnpike road leading from Cupar to Kinross for a distance of three furlongs measuring along the said road, and also the turnpike road leading from Cupar to Ceres for a distance of three furlongs measuring along the said road, and also the turnpike road leading from Cupar to Newport for a distance of one furlong measuring along the said road, all the said distances being measured from the points in the said roads where the boundary of the burgh

crosses the same, and also the lands on both sides of the said roads respectively throughout the whole of the said distances along the same, within three hundred yards from each side thereof; and also all the lands now or to be hereafter acquired by the Fife and Kinross District Lunacy Board, within the parish of Cupar; and the limits described in this section shall be termed "the limits of this Act."

Act to be executed by Commissioners of Police.

5. This Act shall be carried into execution by the Commissioners, with the powers and indemnities and according to the provisions of the Police Acts, so far as not otherwise provided by or under the provisions of this Act, and those Acts shall, in relation to the Commissioners and the several objects and purposes of this Act, be read and construed as if the purposes and provisions of this Act were purposes and provisions of the Police Acts, so far as the same shall be applicable thereto, and except so far as any of the provisions of the Police Acts are varied, altered, or otherwise provided for by or under the provisions of this Act.

Contract for supply of water not to disqualify Commissioners.

6. No person shall be disqualified from being, continuing, or acting as a Commissioner by reason of his being concerned in any contract entered into with the Commissioners for the supply of water, or of his being a mortgagee of the property of the Commissioners.

Payment of rates not to disqualify any judge.

7. No person liable under this Act in payment of rates or other consideration in respect of water supply, shall on that account, or on account of being a Commissioner, be disqualified from acting as a justice of the peace or sheriff, or exercising any judicial function in the carrying out of this Act.

Commissioners may appoint clerk, treasurer, and collector.

8. The Commissioners may, if they think fit, appoint a suitable person or persons to the offices of clerk, treasurer, and collector, for the purposes of this Act, or to any one or more of such offices, and from time to time remove such person or persons and appoint others in their stead, or in the room of such of them as may die, resign, or discontinue their offices; and the provisions of the Police Acts in regard to the clerk, treasurer, and collector appointed or to be appointed for the purposes thereof shall be and are hereby made applicable to the clerk, treasurer, and collector, or any one or more of them, who may be appointed under the provisions and for the purposes of this Act.

Books and accounts to be kept.

9. The Commissioners shall, for the purposes of this Act, cause to be provided and kept true and regular accounts, and to be entered therein all sums of money received and paid by them for the purposes of this Act; and such accounts shall be kept separate and distinct from the other accounts of the Commissioners, and if a

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clerk be appointed for the purposes of this Act, such clerk shall keep the books and records of the Commissioners and their committees so far as the same relate to the purposes of this Act, and such books or records, or any copy or extract therefrom, authenticated by the signature of the clerk, shall be received as evidence in all courts whatsoever in any case or matter concerning this Act, and shall be open to the inspection of any person interested therein without payment of any fee or reward.

Power to make works.

10. Subject to the provisions of this Act, the Commissioners may make and maintain, in the lines or situations and according to the levels shown on the deposited plans and sections, the works hereinafter described, with all necessary embankments, dams, weirs, channels, sluices, catch-water drains, culverts, cuts, aqueducts, tunnels, bridges, roads, tanks, cisterns, gauges, filtering apparatus, houses, buildings, and all other works and conveniences whatsoever connected therewith, and may enter upon, take, and use such of the lands, waters, and streams delineated on the said plans and described in the deposited books of reference as may be required for that purpose.

The works herein-before referred to and authorised by this Act are,—

1. An aqueduct, conduit, or cut to commence in a stream of water on the lands of Clatto (in this Act called "Clatto Stream") at a point thereon 520 yards or thereabouts from the farm-steading of Clatto, and to terminate in the reservoir next herein-after described:
2. A reservoir to be situate on Craigrothie Burn and Clatto Stream, and on portions of the lands of Bunzion, Clatto, Skelpie, and Muirhead, or some of them, to commence by an embankment which will form the eastern end or side thereof to be formed across Craigrothie Burn; thence extending westwards, and then to be continued by another embankment; thence extending to a point on Craigrothie Burn (being the most westerly point of the reservoir):
3. An aqueduct, conduit, or cut to commence in a stream of water called Clatto Den Burn or Kame Burn (in this Act called "Clatto Den Burn") at a point thereon 340 yards or thereabouts from the farm-steading of Clatto, and to terminate in Clatto Stream at a point thereon 520 yards or thereabouts from the said farm-steading:
4. A compensation reservoir to be situate on portions of the lands of Clatto and Muirhead, to commence by an embankment which will form the eastern end or side thereof; thence ex-

tending in a north-westerly direction to a point (being the most westerly point thereof) in the boundary line between the parishes of Ceres and Kettle :

5. An aqueduct, conduit, or line of pipes to commence in the reservoir secondly before described, and to terminate in the filtering pond next herein-after mentioned :

6. Filtering pond on the lands of Tarvitmill, and also an aqueduct, conduit, or line of pipes to commence in the said filtering pond, and to terminate in the distributing reservoir next herein-after described :

7. Distributing reservoir to be situate in the parish of Ceres, and to commence at a point 30 yards to the east of a point in the centre of the turnpike road leading from Cupar to Leven, 340 yards or thereabouts, measured along the said road in a southerly direction, from the milestone marked two miles from Cupar :

8. An aqueduct, conduit, or line of pipes to commence in the said distributing reservoir seventhly before described, and to terminate at a point in the turnpike road leading from Cupar to Kirkcaldy, 70 yards northwards from the north-most corner of Knox's Institution, Cupar :

9. An aqueduct, cut, or line of pipes to commence in the distributing reservoir seventhly before described, and to terminate in the River Eden.

Power of deviation in constructing works.

11. In constructing the works by this Act authorised, it shall be lawful for the Commissioners to make lateral deviations from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon, and to make vertical deviations from the levels of the various works as shown on the deposited sections, with reference to the datum line, to any extent not exceeding two feet upwards and five feet downwards as regards reservoirs, and as regards other works five feet either upwards or downwards: Provided always, that in constructing the embankments of the reservoirs authorised by this Act the Commissioners shall not deviate vertically upwards to a greater height above the surface of the ground than seven feet more than the height shown on the deposited sections with reference to the embankments therein delineated, and if they shall deviate at all above the height so shown, they shall construct the embankments in each case of such additional thickness at the base as shall be equal to five feet for every foot of additional height; but nothing in this section shall be construed to exempt the Commissioners from any of the provisions of "The Waterworks Clauses Act, 1863," with respect to the security of the reservoirs constructed by the undertakers.

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Power to take waters.

12. Subject to the provisions herein-after contained, it shall be lawful for the Commissioners to intercept, take, and divert into the reservoirs before described, and in the said reservoirs to impound and store up, the waters of the said streams called Clatto Stream, Craigrothie Burn, and Clatto Den Burn, and tributaries and affluents thereof respectively, and by means of their aqueducts, reservoirs, and other works to convey, appropriate, and use the said waters for the purposes of this Act.

Compensation water, and provisions as to gauges.

13. As full compensation to the owners, lessees, and occupiers of lands, mills, manufactories, works, buildings, and others, and all other persons interested in the waters of the Clatto Stream, Craigrothie Burn, and Clatto Den Burn, and their respective tributaries and affluents, and the streams and rivers into which they flow, the Commissioners shall, for the use and behoof of the said parties respectively, and of the said lands, mills, manufactories, works, buildings, and others, cause to be discharged continuously from the reservoirs before described, or one of them, into the channel of the said stream called Craigrothie Burn ninety thousand gallons of water, and into the channel of the said stream called Clatto Den Burn forty-five thousand gallons of water during each day of every year; and the Commissioners shall erect and construct, and for ever maintain, proper and sufficient measuring gauges over or through which the said quantities of water from the said reservoirs for the supply of the said streams shall respectively flow or be discharged, and shall make and maintain such other works as shall be necessary for the regulation of the said supplies of water to the said streams respectively; and if any dispute arise as to the fulfilment by the Commissioners of the obligation imposed upon them by this section, the same shall be determined by the sheriff; and the decree of the said sheriff, after hearing the parties interested, and in such form as he shall deem expedient, shall be final, and not subject to review in any way; provided that the sheriff shall have power, if he see fit, before proceeding to pronounce the said decree, to appoint some competent person to report to him as to the facts out of which such dispute has arisen.

Purchase of additional lands, &c.

14. The Commissioners may, in addition to the lands, waters, and streams authorised to be taken or acquired as aforesaid, purchase by agreement any land not exceeding five acres which may be deemed proper and expedient for the purposes of this Act.

Power to take easements, &c. by agreement.

15. The Commissioners may take by agreement, and 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 Commissioners, any easement or servitude, right or privilege, not being an easement of water, 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.

Reserving to landowners right of fishing, &c. in reservoirs.

16. The owners respectively of the lands on which it is proposed to construct the reservoirs No. 2 and No. 4 herein-before described, and their heirs, successors, and assigns in the said lands respectively, shall have and enjoy the exclusive right of fishing, shooting, and sporting, and of curling and skating in or over the said reservoirs so far as the same are to be constructed on the lands of such owners respectively, and also of keeping and using boats on the said reservoirs, but so that the exercise of such rights shall not injure the embankments, sluices, pipes, or other works, or foul or pollute the water. And it shall not be lawful for the Commissioners, or any of their servants, or any person acting under their authority by virtue of this Act or otherwise, to enter upon any part of the estates of such owners for any purpose, or any other person to exercise any such rights and privileges of shooting, curling or skating, fishing or sporting, or keeping or using boats as aforesaid, save and except that the Commissioners or their engineer, or persons under his control, may enter upon the lands and may keep and use boats while examining and repairing the works of the Commissioners, but not otherwise, due compensation being always made for any injury done thereby to the property of such owners and their tenants respectively: Provided always, that nothing herein contained shall prevent the Commissioners from using and appropriating the water of and in the said reservoirs for the purposes of this Act, or from reducing the water in or emptying the said reservoirs for the purpose of cleansing the same, or for the purpose of alterations or repairs.

Period for compulsory purchase of lands.

17. The powers of the Commissioners 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.

Period for completion of works.

18. If the works authorised by this Act are not completed within seven years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Commissioners for executing any work not so completed, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed, and except also as to such pipes as may from time to time thereafter require to be laid, and such works as may require to be made for the purposes of this Act.

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Commissioners may enlarge or increase number of pipes.

19. The Commissioners may from time to time, subject to the provisions of this Act, extend, alter, replace, enlarge, and increase the works, conduits, aqueducts, mains, and pipes authorised by this Act, and may from time to time extend, alter, replace, enlarge, and increase the number and size of the works, mains, and pipes from time to time in use for conveying and distributing water for the purposes of this Act: Provided always, that such extension, enlargement, or increase shall be executed only on lands or property belonging to the Commissioners, or that may be acquired by them by agreement for such purposes from the owners of adjoining lands.

Limits for compulsory supply.

20. The limits of this Act for the compulsory supply of water by the Commissioners shall be the burgh, and the said limits shall be termed "the limits for compulsory supply."

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

21. The Commissioners shall, at the request of the owner or occupier of any house or part of a house occupied as a separate dwelling, situate within the limits for compulsory supply, furnish to such person within such dwelling-house, by means of communication pipes and other necessary and proper apparatus to be provided, laid down, and maintained at the cost of such person, a sufficient supply of water for domestic purposes, including a supply for any coach-house and stable used along with such house, not being for carriages or horses kept for hire, and also including a supply for any private water closet or closets, and fixed bath or baths in such dwelling-house: Provided always, that no person shall be entitled to require the Commissioners to furnish to him a supply of water unless some pipe of the Commissioners shall have been laid within one hundred feet of the outer wall, fence, or boundary of the subjects or premises in respect of which such supply is demanded, or in the case of tenements situate in a private close or place unless some pipe of the Commissioners shall have been laid within one hundred feet of the entrance to such close or place, at the nearest part thereof, or unless the Commissioners shall have become bound, by virtue of a requisition and agreement made and executed in the manner and to the extent required by this Act, to cause pipes to be laid down within the said distance of one hundred feet of such subjects or premises, or such entrance as aforesaid.

Owners to provide and maintain service pipes, &c.

22. For the purpose of providing for the better distribution of the water supply among the inhabitants within the limits for compulsory supply, it shall be lawful for the Commissioners to require the owner of any dwelling-house or tenement of dwelling-houses not properly supplied with water, in any street within said limits in which the pipes of the Commissioners are laid, to take a supply of water for such house or tenement by connecting a service pipe with

the main pipe of the Commissioners in any street or road, and to provide, lay, and maintain in good and sufficient repair such service pipes, stand pipes, or taps, cisterns, and other means and apparatus, and in such positions as may be necessary for that purpose; and in the event of refusal or delay on the part of such owner to comply with such requisition, it shall be lawful for the Commissioners to enter such house or tenement and premises connected therewith, and to provide, lay, and maintain such service pipes, stand pipes, or taps, cisterns, and other means and apparatus, and in such positions as shall appear to them to be necessary for the purpose aforesaid, and to recover the expense thereof from such owner in the same manner as rates or penalties are recoverable under this Act: Provided always, that in the case of houses not exceeding five pounds of yearly rent or value, such owner shall not be required to introduce water into each house, but only such means of supply for each tenement of houses as the Commissioners may deem necessary; provided also, that in case of any question or difference arising between the Commissioners and such owner with respect to the necessity for such means of supply being provided for any such house or tenement, or with respect to the number or position of service pipes, stand pipes, or taps, cisterns, or other means and apparatus necessary for the purpose aforesaid, the same shall be determined and fixed by the sheriff on summary application by either of the parties, and the decision of the sheriff shall be final, and not subject to appeal or review in any court or by any process whatsoever.

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

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

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Commissioners may supply water for other than domestic purposes.

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

Supply of water to landowners, &c. adjoining works.

25. The Commissioners may supply water to all places within four furlongs of the works hereby authorised to be made, to landowners, lessees, or occupiers requiring the same, on such terms and conditions as may be agreed on.

Commissioners to supply water for cleansing sewers, &c.

26. The Commissioners shall be entitled to supply water free of charge for the purpose of flushing and cleansing the drains and sewers, watering the streets, and extinguishing fires within the limits of compulsory supply, and for all other purposes specified in the Police Acts for which the Commissioners may require a supply of water.

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

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

Pipes, &c. to be kept in repair.

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

Apparatus to be approved by the manager of the Commissioners.

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

Penalty for interference with Commissioners valves, &c.

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

Byelaws with respect to supply of water.

31. It shall be lawful for the Commissioners to make byelaws for regulating all or any matters and things whatsoever connected with the supply of water, and for the prevention of waste, misuse, or undue consumption of water within the limits of this Act, and among other things may prescribe the size, nature, make, strength, and arrangement of the pipes, cocks, cisterns, and other apparatus used for the purposes of the supply, and hours for inspection thereof by the officers or servants of the Commissioners, and to impose such penalties for breaches of such byelaws, not exceeding five pounds for each offence, as may be considered expedient, and from

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time to time, as they shall think fit, to repeal, alter, or re-enact any such byelaws; provided that such byelaws shall not be repugnant to the law of Scotland, and before being acted on shall be made, confirmed, and published in the manner provided by the Police Acts with reference to byelaws authorised to be made, confirmed, and published under the provisions of those Acts.

Commissioners to estimate annual sums required.

32. The Commissioners shall be bound, 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 supplying water for and during the year then current, and the interest of any money borrowed under the provisions of this Act, and the payment to the sinking fund, together with the expense of maintaining and managing the works, and obtaining and providing and distributing supplies of water within the limits of this Act, and such salaries, wages, and other expenses of any managers, treasurers, engineers, surveyors, clerks, collectors, or other officers or servants employed by them, and such portion of the expense of extending the mains and pipes from time to time as the Commissioners shall think equitable and fair to charge to such account, and all other charges and expenses chargeable, against revenue.

Domestic water rate to be imposed.

33. In order to raise such a sum of money as, along with the public water rate after mentioned, and other revenue of the Commissioners, shall be sufficient for the purposes aforesaid, it shall be lawful for the Commissioners, and they are hereby authorised and required, once in every year to assess and levy a rate, to be called "The Domestic Water Rate," upon and from the occupiers of all dwelling-houses, and of such parts of all shops and buildings as may be used as dwelling-houses, within the limits for compulsory supply, according to the real rent or full annual value of such dwelling-houses, and of such parts of shops and buildings used as dwelling-houses, and of any offices, gardens, or land belonging thereto or occupied therewith respectively: Provided always, as regards all persons who shall be the occupiers of any such subjects or premises (other than tenements situate in a private close or place), that they shall not be liable to be assessed in respect thereof for the said domestic water rate after the date when the water supply hereby provided is introduced within the limits of compulsory supply, if and so long as some pipe of the Commissioners shall not be laid down within one hundred feet of the outer wall, fence, or boundary of the same: Provided further, as regards the occupiers of tenements situate in a private close or place, that they shall not be liable to be assessed in respect of such tenements for the said rate after the said date, if

and so long as some pipe of the Commissioners shall not be laid down within one hundred feet of the entrance to such close or place at the nearest part thereof: Provided also, that the amount of such rate shall not be restricted by any of the provisions of the Police Acts.

Power to rate the owners of houses in certain cases.

34. The owner as well as the occupier shall be liable for the payment of the domestic water rate for and in respect of every dwelling-house, or part of a house used as a dwelling-house, or other premises, the annual value of which shall not amount to the sum of five pounds, and also for and in respect of every dwelling-house, or part of a house used as a dwelling house, or other premises, which shall be let for a term of occupation less than twelve months; and the powers and provisions in this Act contained for the recovery of the domestic water rate from occupiers shall be construed to apply also to the owners of such houses or premises; and the person receiving the rent of any such house or premises as aforesaid from the occupier thereof, on his own account or as agent or factor for any person interested therein, shall for the purposes of this section be deemed the owner: Provided that where any owner pays any domestic water rate under the provisions of this section, he shall be entitled to recover the same from the occupier, if only one, or from the occupiers, if more than one, in the proportions for which they are respectively liable.

Public water rate to be levied.

35. It shall be lawful for the Commissioners, and they are hereby authorised and required, once in every year to assess and levy upon and from the owners of all lands and heritages within the limits of compulsory supply, a rate, to be called "The Public Water Rate," not exceeding sixpence in the pound of the real rent or full annual value of all such lands and heritages, and also upon and from the occupiers of all lands and heritages within the limits for compulsory supply, not being subjects in respect of which the domestic water rate is assessed and levied on from the occupiers thereof, a rate, to be also called "The Public Water Rate," not exceeding one shilling in the pound of the real rent or full annual value of such lands and heritages, and not less per pound than one third of the rate per pound assessed and levied at the same time for the domestic water rate on the occupiers of the premises subject thereto; and such public water rate leviable from the owners of the property and premises in respect of which the same is imposed may be levied by the Commissioners from the occupiers of such property and premises, and any occupier so paying the said public water rate on the owner shall be entitled to deduct from his rent the rate so paid by him: Provided always, that no person who shall be the

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owner or occupier of any lands and heritages shall be liable to be rated to the public water rate after the date when the water supply hereby provided is introduced within the limits of compulsory supply in a greater sum than the nearest aggregate sum of pounds sterling to one fourth part of such annual value thereof, if and so long as the mains or other pipes of the Commissioners shall not be laid down and properly supplied with water within one hundred feet from the outer wall, fence, or boundary of such premises: Provided further, that all the underground gas pipes or underground works of any gas company, and all woodland, arable, meadow, or pasture land, or other land used for agricultural purposes, and all quarries, and all lines of 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 land and premises within the limits for compulsory supply), shall at all times be assessed only for the public water rate on the nearest aggregate sum of pounds sterling to one fourth of the full annual value thereof.

Rates to be regulated so as not to exceed expenses.

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

Assessment of rates.

37. The Commissioners may assess "the domestic water rate" and "the public water rate" prospectively in order to raise money to pay interest on borrowed money, and charges and expenses to be incurred thereafter, or retrospectively in order to raise money to pay interest on borrowed money and charges and expenses already incurred; and such assessments may be made, levied, and recovered notwithstanding that the works authorised by this Act may not at the time have been made, or the supply of water under this Act been given within the burgh.

Mode of ascertaining rental of property to be assessed.

38. The Commissioners may estimate and fix the real rent or full annual value of the lands, premises, and property liable to "the domestic water rate" and "the public water rate" respectively by the valuation made under the provisions of the public Act seven-

teenth and eighteenth Victoria, chapter ninety-one, for the valuation of lands and heritages in Scotland, or of any Act for amending that Act: Provided always, that where the said valuation does not afford the means for assessing the said rates, or either of them, in terms of this Act, the same shall be assessed by the Commissioners in such manner as shall in their opinion be just.

Rates to be levied in same manner as police assessment.

39. The domestic water rate and the public water rate authorised by this Act may, subject to the provisions of this Act, be imposed and levied by the Commissioners in the same manner as the assessment for general purposes of police may be imposed and levied within the burgh under the provisions of the Police Acts, and that along with or separately from such assessment; and all the powers, enactments, and provisions contained in the Police Acts with respect to the imposing, levying, payment, and recovery of the assessments thereby authorised to be levied on and from the occupiers or the owners of lands and heritages, and with respect to the exceptions and exemptions from such assessments, shall, subject to the provisions of this Act, be and are hereby made applicable to the imposing, levying, payment, and recovery of the rates by this Act authorised to be raised, and the exceptions and exemptions therefrom, in the same manner as if the said rates had been authorised to be levied under the authority of the Police Acts.

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

40. It shall be lawful for the Commissioners to charge and levy for or in respect of the supply of water for domestic purposes to any person within the limits of this Act, beyond the limits of compulsory supply, a rate not exceeding the amount of the domestic water rate which shall be levied at the time under the provisions of this Act, with twenty per cent. of the amount of the said rate in addition thereto.

Application of rates.

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

First, in defraying the expenses of the management and maintenance of the undertaking, and the annual costs, charges, and expenses of providing and supplying water, and in payment of any feu duties or ground annuals and other annual payments exigible in respect of any lands, streams, or property forming part of the undertaking:

Second, in payment of the interest of money borrowed under the authority of this Act:

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

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

Power to borrow on mortgage.

42. It shall be lawful for the Commissioners, under the authority of this Act, in addition to any moneys they have borrowed or are authorised to borrow under the Police Acts or any other Act, to borrow on mortgage any sums not exceeding in all twenty-five thousand pounds, and to make and grant mortgages of the several rates and charges leviable by them under the provisions of this Act, in security of the payment of the money so borrowed, and interest thereon; and if, after having borrowed the said sums, or any part thereof, the Commissioners pay off the same otherwise than by means of the sinking fund herein-after mentioned, it shall be lawful for them again to borrow the amount so paid off, and so from time to time: Provided that the provisions with respect to the borrowing of money in the Police Acts shall not be applicable to the borrowing of money under this Act, and that it shall not be lawful for the Commissioners to borrow money for the purposes of the Police Acts on the security of the rates and charges leviable by them under this Act.

Mortgages may be accompanied with interest warrants.

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

Commissioners may borrow on credit of a cash account.

44. It shall be lawful for the Commissioners to accept and take from any bank or banking company credit on a cash account to be opened and kept with such bank or banking company in the name of the Commissioners, according to the usage of bankers in Scotland, to the extent of the sums which the Commissioners are hereinbefore authorised to borrow, or any part thereof, and to make and grant mortgages of the several rates and charges leviable by them under this Act, in security of the payment of the amount of such credit, or of the sums advanced from time to time on such cash

account, with interest thereon: Provided always, that the whole principal sums due and owing by the Commissioners on such cash account, and for money borrowed by them on mortgage as aforesaid, shall not, when taken together, exceed the sums by this Act authorised to be borrowed.

Manner in which mortgages and orders on bank account to be signed and executed.

45. Every mortgage to be granted by the Commissioners may be partly in writing and partly printed, and shall be signed by at least two of the Commissioners and their treasurer; and all drafts or orders on the cash account before mentioned shall be signed by the treasurer and countersigned by the clerk to the Commissioners; and no Commissioner, clerk, or treasurer shall by his subscription to any such mortgage, draft, or order be or be held to have rendered himself individually or personally liable for the payment of any money so borrowed, drawn, or received, or any interest thereon, or of any sums whatsoever in respect thereof.

Arrears may be enforced by appointment of factor.

46. In the event of any principal money borrowed by the Commissioners as aforesaid, or any interest thereon, not being paid within two months after the same shall have become due, and after twenty-one days previous demand thereof in writing to the clerk to the Commissioners, containing notice of the intention to make the application after mentioned, and which twenty-one days may form part of the said two months, it shall be lawful for any mortgagee having interest on a mortgage in arrear to the amount of two hundred pounds, or for any mortgagee with principal, or principal and interest, in arrear to the amount of three thousand pounds, or for several mortgagees having interest in arrear to the amount of two hundred pounds in the aggregate, or for several mortgagees with principal, or principal and interest, in arrear to the amount of three thousand pounds in the aggregate, to apply for the appointment of a judicial factor; and the application for such appointment may be made from time to time when such arrears arise, and shall be made by summary petition to the Court of Session in either division thereof, or in time of vacation to the Lord Ordinary on the Bills, who are hereby respectively authorised and required, on such application being made by any mortgagee or mortgagees holding the sums in arrear before specified, to appoint from time to time some person as judicial factor, to the effect and with the powers herein-after mentioned, unless previously to such application being advised the sums due, with interest and expenses, shall have been paid to the petitioner or petitioners, or unless the said Court or Lord Ordinary, as the case may be, shall be satisfied that consignation thereof should, under the circumstances, be accepted in lieu of payment, and such consignation be made accordingly; and the interlocutor making such appointment shall not

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be subject to review or appeal, but without prejudice to the legal rights of recovery competent to such mortgagee or mortgagees.

Powers and duties of factor.

47. The judicial factor so appointed, on finding security in common form, shall have and exercise all the powers conferred by this Act upon the Commissioners for and in relation to fixing, imposing, levying, and recovering the several rates and charges by this Act authorised to be made and levied, and managing and maintaining the undertaking of the Commissioners; and the Commissioners shall deliver to him all rate books and other books and documents necessary for that purpose; and after defraying the expense of such application, management, and maintenance, the said judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several parties entitled to payment out of the rates and revenues, and such judicial factory may be recalled on the application or with the concurrence of at least three fourths in value of the applicants for the appointment of a judicial factor; but unless so recalled, such judicial factory shall continue not only until all arrears of interest, or of principal and interest, of mortgages due at the date of the appointment of such judicial factor, and all interest due on any of the said sums, and any interest which shall have become due during his continuance in office, with interest and expenses, including the expenses of the application for such appointment, and of carrying the purposes thereof into execution, and for obtaining the judicial factor's discharge, shall have been paid, but also until any half year's interest which, although not due, may become current during his continuance in office, and a sufficient sum to meet expenses, shall have been paid or consigned in one of the banks in Scotland incorporated by or under Act of Parliament or Royal Charter; and upon payment and consignation as aforesaid of such interest and expenses, it shall be lawful for the Commissioners to apply to the Court of Session, in either division thereof, or in time of vacation to the Lord Ordinary on the Bills, for the recall of the appointment of the judicial factor, who may recall such appointment accordingly.

Discharge of mortgages.

48. Any person entitled to any mortgage granted by the Commissioners under the authority of this Act, may discharge the same, and his right and interest therein, in favour of the Commissioners; and every such discharge may be written, or partly written and partly printed, on the mortgage, and may be according to the form contained in the Schedule (B.) 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.

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Application of money borrowed.

49. The several sums borrowed by the Commissioners on mortgage under the authority of this Act shall be applied to the purposes of this Act, and to no other purpose whatsoever; provided that, with the exception of the cost of enlarging or increasing the number of mains and pipes, and of extending mains and pipes, the several sums borrowed by the Commissioners as aforesaid shall not be applied to any of the purposes to which the rates and charges by this Act authorised to be levied are herein-before specially made applicable.

Application of penalties.

50. Every penalty exigible under this Act, or by any byelaw made in pursuance of this Act, except where the Commissioners shall be the parties by whom the penalty has to be paid, shall be payable to the Commissioners, and shall, when recovered, be applied by them to the purposes of this Act.

Sinking fund.

51. It shall be lawful for the Commissioners, and they are hereby required, after the expiry of five years from the passing of this Act, to set apart annually as a sinking fund the following sums; that is to say, during each of ten years from the said last-mentioned date, a sum of one pound for every one hundred pounds of the money borrowed; and after the expiration of such ten years, a sum of not less than two pounds yearly for every one hundred pounds of the money borrowed; and such sinking fund shall be from time to time applicable to the redemption of mortgages, and to no other purposes whatever, and shall be lodged in any of the banks in Scotland incorporated by or under Act of Parliament or Royal Charter, or invested in Government securities, or lent out at interest in the name and at the discretion of the Commissioners, until the same be applied for the purposes before specified.

Expenses of Act.

52. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Commissioners out of the moneys to be raised under the authority of this Act.

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SCHEDULES referred to in the foregoing Act.

SCHEDULE (A.)

Form of Interest Warrant.

Cupar Water.

Mortgage No. Dated 18

Interest Warrant.

For pounds shillings and pence £ : :

Less income tax : :

£ : :

Payable on 18
at the

Treasurer.

SCHEDULE (B.)

Form of Discharge.

Received from the treasurer to the Commissioners of Police of the burgh of Cupar, as Commissioners under "The Cupar Water Act, 1874," the sum of , being the principal sum contained in the within mortgage (all interest due thereon having been previously paid), and the said mortgage is now delivered up as paid.

Dated this day of eighteen hundred and

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