SUPPLIED FOR THE PUBLIC SERVICE

CHAPTER cxlviii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Dunbar Water. [7th August 1912.]

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WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament:

62 & 63 Vict. c. 47.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Dunbar Water Order Confirmation Act 1912.

[*Price* 2*s.* 6*d.*]

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respectively referred to as "the deposited plans sections and book of reference":

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

Short title and commencement of Order.

1. This Order may be cited for all purposes as the Dunbar Water Order 1912 and shall come into operation at the date of the passing of the Act confirming the same which date is referred to in this Order as "the commencement of this Order."

Interpretation.

2. In this Order 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 And in this Order unless the context otherwise requires—

"The burgh" means and includes the burgh of Dunbar according to the police boundaries thereof and the royalty boundaries thereof where the latter extend beyond the said police boundaries both as existing at the date of the commencement of this Order;

"The Town Council" means the provost magistrates and councillors of the burgh;

"The Police Acts" means the Burgh Police (Scotland) Acts 1892 to 1911;

"The sheriff" means the sheriff of the Lothians and Peebles or his substitute at Haddington;

"Lands and premises" shall have the meaning assigned to that expression in the Police Acts.

Incorporation of Acts.

3. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with and form part of this Order:—

The Lands Clauses Acts;

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 with the exception of clauses 68 70 71 and 72;

The Waterworks Clauses Act 1863;

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 and the crossing of roads and other interference therewith and in construing the said clauses and provisions "the company" means the Town Council "the railway" means the Reservoir (Work 1) and Embankment (Work 2) authorised by this Order and the works immediately connected therewith and "the centre of the railway" means any part of those works.

This Order shall be deemed a Special Act within the meaning of the provisions of the said Acts wholly or partly incorporated herewith.

Power to make new waterworks.

4. The Town Council may subject to the provisions of this Order make and maintain within the county of Haddington in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described or some of them or some part or parts thereof (that is to say):—

NEW WORKS.

(1) A Reservoir (Work 1) situate partly in the parish of Spott and partly in the parish of Stenton on the stream known as the Pathhead or Rottenraw Burn commencing at a point on the said stream eight hundred and forty-three yards or thereby measured in a south-westerly direction following the said stream from its point of confluence with the stream known as the Cauld Burn and terminating at the embankment next hereinafter described:

(2) An Embankment (Work 2) one hundred and sixteen yards or thereby in length situate wholly in the parish of Spott across the said Pathhead or Rottenraw Burn at a point in the centre of the said burn two hundred and twenty yards or thereby measured in a south-westerly direction following the

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said burn from its point of confluence with the said Cauld Burn which embankment will commence at a point forty-five yards or thereby measured in a westerly direction from the said point in the said Pathhead or Rottenraw Burn and will terminate at a point one hundred and sixteen yards or thereby measured in an easterly direction from the said point of commencement:

(3) A Conduit or Line of Pipes (Work 3) situate wholly in the parish of Spott commencing at a point in the Embankment (Work 2) five yards or thereby west of the said Pathhead or Rottenraw Burn and terminating at a point on the south bank of the said Cauld Burn at the point of commencement of the existing Conduit (Work 7) hereinafter described:

(4) A Road of Access (Work 4) situate wholly in the parish of Spott commencing at the point of commencement of the Embankment (Work 2) hereinbefore described and terminating at a point in the public road leading from Burnhead to Halls twelve yards or thereby measured in a south-westerly direction from the point of intersection of the said road with the said Cauld Burn:

(4A) A Road of Access (Work 4A) situate wholly in the parish of Stenton commencing at a point in the public road leading from Spott to Little Spott one hundred and ninety-six yards or thereby south-west from the west side of Spott Cottage and terminating at a point on the north side of the Compensation Reservoir (Work 5) eighty-three yards or thereby south-west of the north end of the embankment of the said reservoir.

Existing works.

5. The Town Council may subject to the provisions of this Order take acquire appropriate hold use maintain and continue the existing waterworks as shown on the deposited plans (that is to say):—

EXISTING WORKS.

(5) An existing Compensation Reservoir (Work 5) formed by an embankment situate partly in the parish of Spott and partly in the parish of Stenton com-

mencing the said reservoir at a point on the stream known as the Spott Burn five hundred and forty-seven yards or thereby measured in a south-westerly direction from the said embankment and terminating at the said embankment:

(6) A Conduit or Line of Pipes (Work 6) situate wholly in the parish of Spott commencing at the spring or well known as Moses' Well and terminating at the point of commencement of the existing Conduit (Work 7) next hereinafter described:

(7) A Conduit or Line of Pipes (Work 7) situate wholly in the parish of Spott commencing at the existing Intake or Weir (Work 8) next hereinafter described and terminating at the point of junction with the Conduit or Line of Pipes (Work 9) hereinafter described at the point four yards or thereby measured in a westerly direction from the confluence of the said Cauld Burn with the stream known as the Howe Burn:

(8) An Intake or Weir (Work 8) situate wholly in the parish of Spott on the said Cauld Burn one hundred yards or thereby measured in a north-easterly direction from the point of confluence of the said Cauld Burn with the said Rottenraw or Pathhead Burn:

(9) A Conduit or Line of Pipes (Work 9) situate partly in the parish of Spott and partly in the parish of Stenton commencing at the existing Intake or Weir (Work 10) next hereinafter described and terminating at the existing Filters and Service Tank (Work 11) hereinafter described:

(10) An Intake or Weir (Work 10) situate wholly in the parish of Spott on the stream known as the Cross Burn at or near its point of confluence with the stream known as the Dean Burn:

(11) Filters and Service Tank (Work 11) situate wholly in the parish of Spott within the enclosure No. 26a of the Ordnance Survey map of the parish of Spott (1907 edition):

(12) A Conduit or Line of Pipes (Work 12) situate partly in the parish of Spott and partly in the parish of

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Dunbar commencing at the existing Filters and Service Tank (Work 11) hereinbefore described and terminating at a point within the burgh of Dunbar at the junction of the public road known as the Spott Road with the High Road leading from Dunbar to Berwick-on-Tweed.

Power to make subsidiary works.

6. The Town Council (in addition to the waterworks authorised by this Order and in connection therewith) may upon or in the lands shown on the deposited plans and described in the deposited book of reference which they are authorised to acquire and use for the purposes thereof make erect and maintain all such embankments dams weirs intake weirs byewashes channels basins sluices bridges roads accesses approaches ways wells tanks gauges filters filter beds and apparatus catchwater drains outlets outfalls drains aqueducts tunnels culverts channels cuts mains pipes meters adits shafts conduits scours valves engines machinery buildings telegraphs telephones posts wires and other works and conveniences as may be necessary or convenient in connection with or subsidiary to the waterworks or any of them but nothing in this section shall exonerate the Town Council from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them Provided that no telegraphs telephones posts wires or other works made or erected by the Town Council shall be used for the purpose of transmitting telegrams which are within the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Power to deviate laterally and vertically.

7. The Town Council may in constructing the works in this Order described deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation respectively shown thereon and when the line of any work is shown on the said plans as passing along any road and no limits of lateral deviation are marked thereon the Town Council may deviate laterally to any extent within the boundaries of such road and the Town Council may deviate vertically from the levels of the various works as shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards Provided that in the exercise of such powers of vertical deviation the Town Council shall not except in the case of crossing bridges or culverts or streams lay above the ground any pipe unless and except so far as is shown on the deposited sections Provided also that the Town Council shall not construct

any embankment or wall of any reservoir of a greater height above the general surface of the ground than that shown on the deposited sections in respect of the corresponding embankment or wall and five feet in addition.

Power to alter roads &c. temporarily.

8. For the purposes of and during the execution of the works which the Town Council are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Town Council may temporarily break up or cross over or under alter or stop up any streets roads lanes paths bridges railways tramways canals passages sewers drains watercourses gas pipes and water pipes and electric or telephonic mains cables or apparatus in any of the lands shown on the deposited plans and specified in the deposited book of reference which they may from time to time find it expedient for any of those purposes so to interfere with providing when possible a proper temporary substitute before interrupting the traffic on any such street road lane path bridge railway tramway or passage or the flow of water gas sewage or electricity or telephonic communication in any such sewer drain watercourse canal pipe main cable or apparatus and making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with the provisions of that section Provided also that the Town Council shall not alter or otherwise interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except under and subject to the provisions of the Telegraph Act 1878.

For protection of North British Railway Company.

9. The following provisions for the protection of the North British Railway Company (hereinafter in this section called "the company") shall unless otherwise agreed between the company and the Town Council apply and have effect (that is to say):—

(1) At least fourteen days before commencing under the powers of this Order any extension enlargement alteration or renewal or increase of the Conduit or Line of Pipes (Work 12) (hereinafter in this section called "Work 12") in so far as under the bridge

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carrying the railway of the company the Town Council shall submit plans sections and specifications thereof to the company for their approval and such extension or other work shall be constructed and carried out in conformity only with such plans sections and specifications as approved and at the sight and to the reasonable satisfaction of the engineer of the company and shall thereafter be properly maintained by the Town Council Provided that the approval of the company shall not be unreasonably withheld and that it shall be deemed to have been given unless the company signify their disapproval within fourteen days after submission of the said plans sections and specifications Provided also that any expenses which the company may reasonably incur for inspection or superintendence of the said works during execution or in connection with the maintenance or repair thereof at any time or in protecting their property or railway during or in connection with the maintenance or repair of the said works shall be repaid to them by the Town Council Provided also that when any works in connection with Work 12 interfere with any bridge or railway of the company they shall have the option of carrying out so much of such works as shall so interfere with any bridge or railway with their own men at the expense of the Town Council:

(2) The operations of the Town Council under this Order shall be carried out so as not to injuriously affect the railway of the company or any bridge belonging to the company or to cause any interruption to the passage or conduct of traffic on the railway of the company and all such operations shall be carried out at such times as may be arranged between the Town Council and the engineer of the company and if any injury or interruption shall arise from or be in any way owing to the operations of the Town Council or the bursting leakage or failure of Work 12 the Town Council shall forthwith make good or remove such injury or interruption at their own expense or in default the company may do the same and the Town Council shall pay to the company all costs and

expenses loss or damage including loss of traffic incurred or sustained by them in respect thereof:

(3) Nothing in this Order contained or which may be done in pursuance thereof shall prevent the company from maintaining and repairing and when necessary altering or reconstructing their railway or any bridge belonging to the company without interference on the part of the Town Council and without incurring any liability to the Town Council for any loss injury damage expense or interruption to Work 12 which may arise from such maintenance repair alterations or reconstruction unless the same shall arise from the negligence of the company or persons for whom they are responsible Provided that all such operations shall be executed by the company in such manner as to cause as little interruption or inconvenience as practicable to the maintenance and use of the works of the Town Council and the company shall give fourteen days' notice in writing except in cases of emergency to the Town Council before commencing any such operations and these operations so far as interfering with the works of the Town Council shall be conducted at the sight and to the reasonable satisfaction of the engineer of the Town Council:

(4) The Town Council shall pay to the company any extra expense which the company may reasonably incur or be put to in maintaining repairing altering or reconstructing their railway or any bridge belonging to the company by reason of the laying down maintaining using extending altering renewing relaying replacing enlarging or increasing the number or size of any works authorised by this Order and such extra expense if any shall be determined by the arbiter appointed as hereinafter in this section mentioned:

(5) If any difference shall arise between the Town Council and the company as to the meaning of this section or as to any plans sections and specifications or as to any work or the method of executing the same or as to any expenses referred to in this section the same shall be determined by an arbiter to be agreed

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upon between the Town Council and the company or failing agreement to be nominated by the Board of Trade on the application of either of the parties.

For protection of Spott Estate.

10. The Town Council shall not except by agreement in writing between them and the owner for the time being of the estate of Spott (in this section called "the owner") take or use any lands of the owner for laying any pipes therein for the purposes of the water supply of the Town Council but the existing Pipe (Work No. 9 of the existing works hereinbefore described) so far as the same is laid in the lands of the said estate may be maintained in those lands as a right of servitude in favour of the Town Council and may be held used repaired and renewed by the Town Council as part of their water undertaking Provided always that the owner shall if and when required by the Town Council sell and grant to the Town Council a servitude or right to lay down maintain renew and use on the lands of the owner within any distance not exceeding five feet on each side of the said existing pipe such substituted or additional pipes as may be necessary for the water undertaking of the Town Council and in the event of any difference between the Town Council and the owner as to the terms and conditions of such agreement such difference shall be determined by the sheriff of the Lothians and Peebles on the application of either party and the sheriff's decision shall be final.

Confirmation of agreement with Mrs. Nisbet Hamilton Ogilvy.

11. The agreement made between Mrs. Nisbet Hamilton Ogilvy of Biel and the Town Council set forth in the Second Schedule to this Order is hereby sanctioned and confirmed and made binding on the parties thereto.

As to private rights of way over lands taken compulsorily.

12. All private rights of way over any lands which shall under the powers of this Order be acquired compulsorily shall as from the date of such acquisition be extinguished Provided that the Town Council shall make full compensation to all parties interested in respect of any such rights and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Power to take water.

13. The Town Council may subject to the provisions of this Order from and after the commencement of this Order by means of the works by this Order authorised and by the existing water-

works of the Town Council or some of them or some part or parts thereof abstract intercept divert take appropriate impound collect store distribute supply and use the waters of the streams known as the Pathhead or Rottenraw Burn and the Cauld Burn and all tributaries of the said streams and all streams springs and waters flowing directly or indirectly into the said streams respectively and the said Reservoir (Work 1) above the Embankment (Work 2) and the Intake (Work 8) before described and also the waters of the stream known as the Cross Burn with all waters springs and streams flowing into the same and all tributaries brooks waters springs and streams flowing directly or indirectly into the existing waterworks at the Intake (Work 10) before described and also the waters of the stream known as the Brock Burn and all waters springs and streams flowing into the same and all tributaries brooks waters springs and streams flowing directly or indirectly into the existing Compensation Reservoir (Work 5) before mentioned at the embankment mentioned in the said Work 5 before described . And from the said works authorised by this Order and the existing waterworks of the Town Council or from some of them the Town Council may supply water within the limits of compulsory supply of this Order or to such places beyond the same as are authorised by this Order for the domestic and other purposes for which the Town Council are by this Order and the Police Acts authorised to supply water and also for providing compensation water as hereinafter mentioned.

Compensation water.

14.—(1) The Town Council shall from and after the commencement of this Order discharge or allow to flow as compensation water from the existing Reservoir (Work 5) into the Spott Burn at the gauge hereinafter in this section described a uniform and continuous flow of three hundred and fifty thousand gallons during the twenty-four consecutive hours of every day.

(2) Such compensation water to be discharged into the said Spott Burn as aforesaid shall if and while so discharged be deemed to be full compensation to all mill owners riparian proprietors and other persons interested in the waters flowing down the Pathhead or Rottenraw Burn and the Cauld Burn and the Cross Burn and the Brock Burn and the Spott Burn at the respective points of abstraction for the waters appropriated by this Order.

(3) The Town Council shall for the purpose of ascertaining the amount of the compensation water to be daily discharged as aforesaid into the Spott Burn construct and maintain immediately

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below the foot of the outer slope of the embankment of the said Reservoir (Work 5) a suitable and sufficient measuring gauge or other apparatus over or through which such compensation water shall flow or be discharged into the Spott Burn And such gauge or other apparatus aforesaid shall be open to the inspection and examination of all persons having an interest in the said compensation water or persons duly authorised by them on their behalf at all reasonable times.

(4) In case of any neglect on the part of the Town Council to maintain the gauge or other apparatus referred to in this section in a state of efficiency and in case of any other neglect by or in consequence of which the said quantity of compensation water shall not so flow the Town Council shall for every day on which such neglect occurs forfeit and pay to each of the persons affected thereby (who may sue for and recover the same) the sum of five pounds and shall in addition make compensation for any loss damage or injury sustained by such persons or any of them.

(5) In the event of any dispute or difference arising between the Town Council and any person interested as to the true intent and meaning of the provisions of this section or as to the carrying out of the same such dispute or difference shall failing agreement be settled by an engineer to be agreed on and failing agreement to be named by the sheriff on the application of either party.

Power to acquire lands.

15. Subject to the provisions of this Order the Town Council may purchase acquire hold enter upon appropriate take and use such of the lands shown on the deposited plans and described in the deposited book of reference as may be required for the purposes of the works described in the sections of this Order of which the marginal notes are respectively "Power to make new waterworks" and "Existing works."

Persons under disability may grant servitudes.

16. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Town Council any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and annual feu duties or ground

annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Cancellation of agreements.

17. Whereas certain of the sources of the water supply of the burgh in respect of which the agreements specified in the First Schedule to this Order were entered into have for some time ceased to be used as a source of water supply for the burgh and it is expedient that the said agreements should be cancelled Be it therefore enacted that the agreements specified in the said schedule shall be and the same are hereby as from the commencement of this Order cancelled and annulled.

Power to acquire servitudes only for lines of pipes.

18. The Town Council may in lieu of acquiring any lands for the purposes of the conduits or lines of pipes of the existing waterworks and the waterworks by this Order authorised where the same are or are intended to be constructed underground acquire such servitudes in such lands as they may require for the purpose of making maintaining cleansing and repairing the same and may give notice to treat in respect of such servitudes and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts (inclusive of those with regard to limited owners and to arbitration and the summoning of a jury) shall apply to such servitudes as fully as if the same were lands within the meaning of those Acts:

Provided that nothing herein contained shall authorise the Town Council to acquire by compulsion any such servitude in any case in which the owner in his particulars of claim shall require the Town Council to acquire the lands in respect of which they have given notice to treat for the acquisition of a servitude only and every notice to treat for the acquisition of a servitude shall be endorsed with notice of this proviso:

Provided also that as regards any lands in respect of which the Town Council have acquired servitudes only under the provisions of this section the Town Council shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners and occupiers for the time being shall subject to such servitudes have the same rights to use and cultivate the said lands at all times as if this Order had not been confirmed.

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Power to acquire and hold lands for protection of works and prevention of pollution.

19.—(1) The Town Council may hold any lands acquired by them under this Order and may also by agreement purchase acquire and hold any lands or take on lease or take servitudes or restrictions over any lands which may in their opinion be necessary or desirable for the purpose of securing the purity of the water in the drainage area of the waterworks of the Town Council and of protecting their water supply against pollution nuisance encroachment or injury and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts.

(2) The Town Council may let for such period as they think fit or sell or feu any land acquired under this section on such terms conditions and restrictions as regards its use as to the Town Council may seem fit and to secure that such land shall not be manured or broken up for tillage and that no buildings which may prejudicially affect the water supply or the purity of the water shall be erected thereon The proceeds of the sale of any lands by the Town Council shall be applied only to the purposes of this Order to which capital is properly applicable.

(3) Nothing in this Order shall exonerate the Town Council from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land acquired under the powers of this section and the Town Council shall not erect or permit the erection of any buildings on such lands except such as are required in connection with their waterworks undertaking or for farm buildings.

Reservation of water rights on sale.

20. The Town Council on selling any lands acquired for or in connection with the purposes of this Order and not required to be retained for those purposes may subject to the provisions of the section of this Order of which the marginal note is "Limiting powers of Town Council to abstract water" reserve to themselves all or any part of the water rights belonging thereto and may make the sale subject to such reservation accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to use of water exercise of noxious trades or discharge or deposit of manure sewage or other impure matter or otherwise as they may think fit.

Byelaws for preventing pollution of water.

21.—(1) The Town Council may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to impound and take under this Order and

may by such byelaws prescribe the construction maintenance and use of proper drains sewers and works and make provision for the prevention of any act or thing tending to pollution of the water.

(2) The byelaws made under this section shall be in force within the areas from or through which the said waters flow or within so much of such areas as may be defined in the byelaws.

(3) All byelaws made under this section which affect any district beyond the burgh shall be subject to the approval of the local authority of such district Provided that such approval shall not be necessary where in the opinion of the Local Government Board for Scotland it has been unreasonably withheld and any such local authority may apply to the said Board to cancel any byelaws made by the Town Council and in force within the district of such local authority and the said Board may cancel the same accordingly.

(4) The provisions as to byelaws to be made by a local authority contained in sections 183 to 188 of the Public Health (Scotland) Act 1897 shall apply to byelaws made by the Town Council under this section.

(5) The Town Council shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under the provisions of this section whose legal rights shall be injuriously affected by the restrictions imposed by such byelaws and such compensation shall be settled in default of agreement by arbitration in accordance with the provisions of the Lands Clauses Acts.

Limiting time for exercise of compulsory powers of purchase.

22. The powers of the Town Council for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of three years from the commencement of this Order.

Period for completion of works.

23. If the works authorised by this Order are not completed within five years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Town Council for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed.

Accommodation for workmen &c.

24. The Town Council shall if and when required by the local authority of the district in which the works by this

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Order authorised are situate (in this section called "the local authority") make provision to the satisfaction of the local authority for the proper housing and sanitary requirements of the persons employed in constructing the works by this Order authorised and for the treatment of cases of sickness (other than infectious disease) and accident occurring among the said persons during the construction of the said works In considering what provision ought to be made for the said purposes the local authority shall take into consideration the provision already available in the neighbourhood of or conveniently accessible from the said works.

In the event of any dispute arising between the Town Council and the local authority as to the amount or nature or situation of the housing accommodation and sanitary requirements to be provided or as to the sufficiency of the provision for the treatment of cases of sickness (other than infectious disease) and accident or as to the time within which such accommodation shall be provided and such provision made or as to the carrying out by the Town Council of any requirement of the local authority under this section either party may appeal to the Local Government Board for Scotland (in this section called "the Board") and their decision shall be final and binding on both parties:

Provided that if it appear to the Board at any time that sufficient provision for the aforesaid purposes is not made they shall have power to require the Town Council to make provision or additional provision therefor to the satisfaction of the Board.

In the event of the Town Council or the local authority failing to comply with any order or requirement of the Board under this section they shall be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues and such penalties shall be recoverable with expenses at the instance of the Lord Advocate on behalf of the Board in any competent court.

For the purposes of this section the Board shall have the same powers of holding inquiries and of requiring reports to be made by local authorities and their officials as they have under the Public Health (Scotland) Act 1897 for the purposes of that

Act and the provisions of the said Act relating to such inquiries and reports shall apply accordingly.

Lands for extra-ordinary purposes.

25. In addition to the lands authorised to be taken and acquired under the powers of this Order the Town Council may purchase by agreement lands not exceeding six acres for the purpose of making depôts pipe yards and other buildings and conveniences in connection with the water undertaking of the Town Council but nothing in this Order shall exonerate the Town Council from any action interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any lands purchased under the powers of this section and no house or building shall be erected on any such lands other than any houses or buildings which may be required in connection with the undertaking of the Town Council.

Limiting powers of Town Council to abstract water.

26. The Town Council shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this or some other Order or Act of Parliament.

Powers for repair of works and temporary discharge of water into streams.

27. For the purpose of executing any necessary work of repair or of cleansing or of examining any of the works authorised by this Order or any reservoir filter or tank aqueduct or conduit belonging to the Town Council the Town Council may cause the water in any such works or reservoir filter or tank aqueduct or conduit to be temporarily discharged into any available stream or watercourse In the exercise of the power conferred by this section the Town Council shall do as little damage as may be and shall make full compensation to all persons for any damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration.

Injuring meters &c.

28. Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Town Council or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Town Council shall (without

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prejudice to any other right or remedy for the protection of the Town Council) be liable to a fine not exceeding five pounds and the Town Council may in addition thereto recover the amount of any damage by them sustained:

And in any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fittings belonging to the Town Council or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Town Council the Town Council may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for insuring the proper registering by such meter of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Town Council by the person so offending and may be recovered by them as water rates are recoverable The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Town Council when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be primâ facie evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings.

Penalty for taking water except for domestic use.

29. Every person who fraudulently takes or uses water belonging to the Town Council for any purpose other than domestic or drinking purposes shall for every such offence be liable to a penalty not exceeding ten pounds and to a daily penalty of five pounds for each day any such offence continues after conviction.

Application of penalties.

30. All penalties exigible under the provisions of this Order and of the Acts wholly or partially incorporated herewith (excepting any penalties which may be imposed upon the Town Council) shall be paid over to the Town Council instead of being applied in the manner provided by the last-mentioned Acts or the Acts therein referred to.

Prosecution of offences.

31. All offenders against any of the provisions of this Order or of any of the Acts incorporated with the same respectively

or against any of the byelaws of the Town Council may be prosecuted and all penalties in respect of offences against any of such provisions or byelaws may be recovered summarily by the Town Council under the Summary Jurisdiction (Scotland) Act 1908.

Power to lay pipes in streets not dedicated to public use.

32. The Town Council may on the application of the owner or occupier of any premises within the district within which the Town Council are for the time being authorised to supply water abutting on or being erected in any street laid out but not dedicated to the public use supply such premises with water and may lay down take up alter relay or renew in across or along such street such pipes and apparatus as may be requisite or proper for furnishing such supply and for that purpose the Waterworks Clauses Acts 1847 and 1863 shall apply as if such street were a street within the meaning of those Acts.

As to breaking up ground for maintaining communication pipes.

33. For the purpose of complying with any obligation under this Order to maintain any pipe or apparatus the person liable to maintain the same shall have the like power to open the ground as is conferred upon him by sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

Limits of compulsory supply.

34. The limits for the compulsory supply of water by the Town Council shall be the burgh which limits are in this Order referred to as "the limits of compulsory supply."

Pressure.

35. The water to be supplied from any main or pipe of the Town Council whether existing or authorised to be constructed by this Order need not be constantly laid on under pressure during the execution of necessary repairs renewals or alterations nor be supplied in any case at a level above or at a greater height than can be supplied or afforded by gravitation from the existing service reservoir or tank of the Town Council.

Suspension of constant supply.

36. Notwithstanding anything to the contrary contained in the Waterworks Clauses Acts 1847 and 1863 the Town Council until the expiration of five years from and after the commencement of this Order or until the waterworks authorised by this Order shall have been substantially completed and the water therefrom introduced whichever shall first happen shall not be bound to give or maintain a constant supply.

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Town Council not bound to supply several houses by one pipe.

37. The Town Council shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house supplied by them with water.

Notice of discontinuance.

38. A notice to the Town Council from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the office of the Town Council.

Byelaws for preventing waste &c. of water.

39.—(1) The Town Council may make byelaws for the purpose of preventing the waste undue consumption misuse or contamination of water and may by such byelaws prescribe the size nature materials workmanship and strength and the mode of arrangement connection disconnection alteration and repair of pipes meters cocks ferrules valves soil-pans waterclosets baths cisterns and other apparatus (in this section referred to as "water fittings") to be used and forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination.

(2) All byelaws made under this section which affect any district beyond the burgh shall be subject to the approval of the local authority for such district Provided that such approval shall not be necessary where in the opinion of the Local Government Board for Scotland it has been unreasonably withheld.

(3) Such byelaws shall apply only in the case of premises to which the Town Council are bound to afford and do in fact afford or are prepared on demand to afford a constant supply and the provisions with respect to byelaws contained in sections 183 to 188 of the Public Health (Scotland) Act 1897 shall apply to all byelaws so made.

(4) In case of failure of any person to observe such byelaws as are for the time being in force the Town Council may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any water fittings belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be recoverable by the Town Council in

the same manner as the water rates in respect of the premises are recoverable.

Supply to houses partly used for trade &c.

40. The Town Council shall not be bound to supply with water otherwise than by measure any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade or manufacturing purpose for which water is required.

Power to sell or let meters &c.

41. The Town Council may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit.

The provisions of section 14 of the Waterworks Clauses Act 1863 shall extend to authorise the Town Council to let for hire any water fittings to any person supplied by them with water.

Notice to Town Council of connecting or disconnecting meters.

42. Before any person connects or disconnects any meter by means of which any of the water of the Town Council is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Town Council of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the Town Council and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Town Council may enlarge or increase number of pipes.

43. The Town Council may at any time subject to the provisions of this Order and notwithstanding the expiration of the period limited for completion of works lay down maintain use extend alter renew relay replace enlarge and increase the number and size of any mains pipes and other conveniences of the Town Council at any time existing for conveying and distributing water under the powers of this Order Provided always that such laying down extension enlargement or increase shall be executed only on lands or property belonging to the Town Council or over which the Town Council have acquired a servitude right or which may be acquired by agreement or which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open and break up for such purposes.

Agreements for supplying water in bulk.

44. The Town Council may enter into and carry into effect agreements with any local authority company or person for the supply of water in bulk to any such authority company or

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person respectively beyond the limits of compulsory supply and for such remuneration and on such terms and conditions and for such periods as may be agreed upon. Provided that such supply shall not be given except with the consent of any local authority company or person supplying water under parliamentary authority within the district to be supplied and of the local authority of that district.

Power to Town Council and owners &c. to agree as to supply of water.

45. The Town Council may after the completion of the reservoir and works authorised to be constructed as aforesaid supply water from any of the waterworks or conduits of the Town Council to any owners and occupiers of lands and heritages lying adjacent or near to the said conduits and the Town Council may contract with all or any such persons for such supply at such rates and upon such terms and conditions and for such period or periods of time as they may agree Provided always that any supply of water under the provisions of this and the immediately preceding section of this Order shall not prejudicially affect or restrict the supply of water from time to time required within the limits of compulsory supply Provided further that the supply of water by the Town Council under this section shall be subject to the consent of the local authority of the district within which such supply is proposed to be given.

Payment of charge for water supply.

46. The charge for the supply of water under the two immediately preceding sections of this Order shall be payable at such times and in such manner as the Town Council shall fix and unless the Town Council shall otherwise determine shall except when the same is supplied by measure be paid in advance and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the Town Council or at the time when the agreement to take water from the Town Council is made Provided that such payment in advance shall not exceed one-quarter of the annual charge for the said water supply Provided also that where the supply is furnished by measure the consumer may be required to deposit such sum in security of the payment for such supply as the Town Council may think necessary.

Laying mains in public roads.

47. The Town Council may at any time for the purposes of conveying water from any of their waterworks whether existing or by this Order authorised or for distributing and supplying

water beyond the burgh lay down make and maintain and use aqueducts conduits or lines of pipes through over under along across or into any public road or highway with the consent of the road authority and renew alter enlarge duplicate and increase the number and size thereof or extend the same and stop up temporarily any such public road or highway for such purposes providing when possible a proper temporary substitute to the reasonable satisfaction of the road authority before interrupting the traffic on any such road and making full compensation to all persons injuriously affected by anything done under the provisions of this section Provided that nothing in this section shall prejudice extend or affect the powers and provisions of this Order with respect to the works authorised by this Order.

Power to borrow.

48. The Town Council may subject to the provisions and for the purposes of this Order in the manner and under the powers and provisions of the Police Acts from time to time borrow the sums following:—

(1) For the purchase of lands and servitudes the sum of one thousand seven hundred and ten pounds;

(2) For the construction of storage reservoir embankment waste weir gauge well and roads of access the sum of fifteen thousand six hundred and seventy pounds;

(3) For the construction of main conduit or line of pipes valves valve chambers and drains &c. the sum of two thousand and fifty pounds;

(4) For the purposes of the water undertaking with the consent of the Secretary for Scotland but not otherwise such further moneys as the Town Council may require and the Secretary for Scotland shall have and may exercise in relation to such consent as aforesaid all the powers of section 93 of the Local Government (Scotland) Act 1889; and

(5) For the payment of the costs charges and expenses of and incidental to obtaining and confirming this Order the sum requisite for the purpose;

and may make and grant mortgages or other securities of the water assessment and rates rents and charges in the manner authorised by the Police Acts in security of the money so borrowed and interest thereon and any sums so to be borrowed

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may be borrowed on terms of the repayment thereof by annuity instalment or otherwise.

Periods for repayment of borrowed money.

49. The Town Council shall pay off all moneys borrowed by them under this Order for the purposes of their water undertaking within the respective periods following (hereinafter referred to as "the prescribed period") (that is to say):—

As to moneys borrowed for the purpose (1) mentioned in the immediately preceding section of this Order within sixty years from the date or dates of borrowing the same:

As to moneys borrowed for the purpose (2) mentioned in the immediately preceding section of this Order within fifty years from the date or dates of borrowing the same:

As to moneys borrowed for the purpose (3) mentioned in the immediately preceding section of this Order within thirty-five years from the date or dates of borrowing the same:

As to moneys borrowed with the approval of the Secretary for Scotland for the purposes (4) mentioned in the immediately preceding section of this Order within such period as the Secretary for Scotland may notwithstanding anything in the Police Acts contained prescribe:

As to money borrowed for the payment of the costs charges and expenses of and in relation to this Order within five years from the commencement of this Order.

Mode of repayment of borrowed money.

50. The Town Council shall pay off all moneys borrowed by them (other than money borrowed for current expenses) under this Order either by means of a sinking fund formed under the provisions of this Order or by equal yearly or half-yearly instalments of principal or of principal and interest combined or partly by one of those methods and partly by another or others of them.

Sinking fund.

51.—(1) If the Town Council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Order such sinking fund shall be formed and maintained either—

(A) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called "a non-accumulating sinking fund"; or

(B) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed A sinking fund so formed is hereinafter called "an accumulating sinking fund."

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority other than the Town Council the Town Council being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Town Council towards the equal annual payments to the fund.

(4) The Town Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the Town Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Town Council:

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate

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per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Order shall be paid by the Town Council in addition to the payments provided for by this Order.

(7) If it appears to the Secretary for Scotland or to the Town Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Town Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the Town Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Town Council be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Town Council may with the consent of the Secretary for Scotland reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Town Council be sufficient to repay the loan in respect of which it is formed within the prescribed period the Town Council may with the consent of the Secretary for Scotland discontinue the annual payments to such sinking fund.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which

it was formed shall be applied to such purpose as the Town Council may determine.

(12) The period at which the payments into the sinking fund shall commence shall (except as regards money borrowed for the payment of the costs charges and expenses of and incidental to obtaining and confirming this Order) be four years after the commencement of this Order or within one year after the completion of the works authorised by this Order and the introduction of the water supply from the said works whichever shall be the earlier.

Power to re-borrow.

52. If after having borrowed the sums of money by this Order authorised or any part thereof the Town Council shall pay off the same or any part thereof otherwise than by means of annuities or instalments or of the sinking fund provided by this Order or of the proceeds of the sale of land it shall be lawful for the Town Council again to borrow the amount so paid off upon the same securities as those upon which the moneys so paid off were secured and so from time to time.

Town Council may borrow on cash account.

53. The Town Council may 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 according to the usage of bankers in Scotland to the extent of the amount which the Town Council require at the time to borrow under this Order or any part thereof and may make and grant mortgages or other securities of the water assessment and rents rates and charges in the manner authorised by the Police Acts 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 sums due and owing by the Town Council on such cash account and for money otherwise borrowed by them shall not when taken together exceed the aggregate amount of the sums by this Order authorised to be borrowed.

Borrowing power for current expenses.

54. In the application to the burgh of section 49 (Power to borrow temporarily) of the Burgh Police (Scotland) Act 1903 the expression "any public general Act" shall be deemed to include this Order.

Application of Police Acts.

55. The provisions of the Police Acts with respect to water supply shall subject to the provisions of this Order and so far

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as not inconsistent therewith apply to the supply of water within the burgh by the Town Council from their existing waterworks and from the works by this Order authorised.

Reserve fund.

56. The Town Council may provide out of the yearly water assessment and rates rents charges and other revenues of their water undertaking a reserve fund by setting aside such a sum annually as they may from time to time think fit and investing the same and the resulting income thereof upon such securities as the Town Council may by law for the time being invest their funds and accumulating the same at compound interest which reserve fund shall not at any time exceed in the whole the sum of five thousand pounds and shall be applicable as and when the Town Council may determine from time to time for the renewal of the works plant and apparatus or any extraordinary claim or demand at any time arising against the Town Council in respect of their water undertaking.

Annual return to Secretary for Scotland with respect to sinking fund.

57. The treasurer of the Town Council shall within four months after the expiration of each year during which any sum is required to be paid as an instalment or to be set apart for a sinking fund transmit to the Secretary for Scotland a return in such form as may be prescribed by the Secretary for Scotland and verified by statutory declaration if so required by him showing the amount which has been so paid or set apart in respect of that year and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of such sinking fund and the interest or income thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any default in making such return such treasurer so making default shall be liable to a penalty not exceeding twenty pounds which shall be recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appear to the Secretary for Scotland by any such return or otherwise that the Town Council have failed to pay any instalment or to set apart the sum required by this Order to be set apart for the sinking fund or to make any increased payment thereto by this Order required or have applied any portion of the moneys set apart for that fund or any interest or income thereof to any purposes other than those authorised by this Order the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which such default shall have

been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by decree of either division of the Inner House of the Court of Session pronounced in a summary application presented for that purpose.

Application of moneys borrowed.

58. All sums borrowed by the Town Council on mortgage or cash account or otherwise (except any sums borrowed for current expenses) shall be applied only to purposes to which capital is properly applicable.

Reservation of prior mortgages.

59. Nothing in this Order shall prejudice or affect the priority or other rights or remedies under any mortgages or securities or obligations granted by the Town Council before the commencement of this Order and then subsisting.

Protection of lender from inquiry.

60. No person lending money to the Town Council shall be bound to inquire as to the observance by the Town Council of any provision of the Police Acts or this Order or be bound to see to the application or be answerable for any loss misapplication or non-application of such money or any part thereof.

For appointment of a judicial factor.

61. The mortgagees of the Town Council under this Order may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than two thousand pounds.

Existing waterworks and new works to form one undertaking.

62. Subject to the provisions of this Order the existing waterworks of the Town Council and the works to be constructed under the authority of this Order shall for all purposes whatsoever be and be deemed to be part of the water undertaking of the Town Council.

Costs of Order.

63. The costs charges and expenses incurred in preparing for and obtaining and confirming this Order and incidental thereto shall be paid by the Town Council out of any moneys in their hands or out of any moneys borrowed by them under this Order for that purpose.

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The SCHEDULES referred to in the foregoing Order.

THE FIRST SCHEDULE.

Dates.	Parties.
1874. 17th 25th 27th and 29th August and 4th September.	Agreement between Robert Higgins on behalf of the proprietrix of the estate of Biel J. and F. Anderson on behalf of the proprietor of Bowerhouse Robert Swan on behalf of the Earl of Haddington and James Brunton on behalf of the Duke of Roxburghe of the first part and James Knox James Brand and John Anderson of the town of Dunbar on behalf of the local authority of Dunbar of the second part.
1878. 13th 22nd 25th and 28th February.	Agreement between Robert Higgins on behalf of the proprietrix of the estate of Biel J. and F. Anderson on behalf of the proprietor of Bourhouse Robert Swan on behalf of the Earl of Haddington and James Brunton on behalf of the Duke of Roxburghe of the first part and James Brand Provost and Charles Notman town clerk of the burgh of Dunbar for and on behalf of the local authority of Dunbar of the second part.
1878. 14th February and 2nd March.	Agreement between James Brunton on behalf of the Duke of Roxburghe and James Brand Provost and Charles Notman town clerk of Dunbar for and on behalf of the local authority of Dunbar.
1887. 25th February 28th February 4th 9th and 10th March.	Agreement between Robert Higgins on behalf of the proprietrix of the estate of Biel J. and F. Anderson on behalf of the proprietor of Bowerhouse or Bourhouse Lindsay Jamieson and Haldane on behalf of the Earl of Haddington and James Brunton factor for and on behalf of the Duke of Roxburghe of the first part and James Brand Provost and Charles Notman town clerk of the burgh of Dunbar for and on behalf of the local authority of Dunbar of the second part.

THE SECOND SCHEDULE.

Stamp. Ten shillings.

AGREEMENT between Mrs. MARY GEORGIANA CONSTANCE NISBET HAMILTON OGILVY of Biel in the county of Haddington widow heiress of entail of the entailed lands and estates of Biel (hereinafter called "the first party") of the first part and THE PROVOST MAGISTRATES AND COUNCILLORS OF THE ROYAL BURGH OF DUNBAR (hereinafter called "the second party") of the second part.

WHEREAS the second party are in the present session of Parliament under the Private Legislation Procedure (Scotland) Act 1899 promoting a draft Provisional Order intituled a "Provisional Order to authorise "the provost magistrates and councillors of the Royal burgh of Dunbar "to provide an additional water supply and to construct and maintain "new waterworks to vest the existing waterworks in the Town Council "and for other purposes":

And whereas in respect of the second party entering into these presents the first party consents to the said Provisional Order so far as the same affects the lands and property of the first party being passed upon the terms and conditions hereinafter written:

Therefore the first and second party have agreed and hereby agree as follows (namely):—

First The first party shall not oppose the said Provisional Order.

Second In the event of the said Provisional Order being passed into law the second party shall under the powers thereby conferred on the second party be entitled to acquire the following property rights and interests (namely):—

(1) For the purposes of the water supply under the Order to impound the waters of the Rottenraw or Pathhead Burn by means of the Reservoir (Work 1) and Embankment (Work 2) shown on the deposited plans and to take water from Moses Well the Cauld Burn and the Cross Burn by means of (Work 6) (Work 8) and (Work 10) described in the Order:

(2) The existing Compensation Reservoir (Work 5):

(3) A Servitude Right for a Road of Access (Work 4) to the new Reservoir (Work 1) and for a Road of Access (Work 4A) to the existing Reservoir (Work 5) and constructed on such lines as may be adjusted and fixed by John Alexander Warren Civil Engineer Glasgow and George Somervel Carfrae Civil Engineer Edinburgh within the limits of deviation shown on the deposited plans:

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(4) A Servitude Right of Wayleave for the existing Conduits or Lines of Pipes (Work 7) and (Work 9) described in the Order as well as the two-inch pipe (hereinafter referred to as "the Little Spott Pipe") so far as it passes through the estate of Biel which pipe at present conducts water to Little Spott Farm and others on the estate of Biel and thence to the estate of Bourhouse and the property of Wester Broomhouse and also a Servitude Right of Wayleave to lay maintain and use the Conduit or Line of Pipe (Work 3) between the new Reservoir (Work 1) and the existing Pipe (Work 7).

Third The second party shall pay to the first party as compensation for the property and rights and privileges to be acquired as aforesaid—

(1) For all land to be taken and acquired for the purposes of the Order at the rate of sixty pounds per acre; and

(2) For wayleaves for pipes at the rate of two shillings per lineal yard of pipe excepting in the case of the Little Spott Pipe for which so far as it passes through the estate of Biel the wayleave shall be at the rate of one shilling per lineal yard of pipe The extent of the lands to be taken and acquired or occupied as aforesaid the lengths of the wayleaves and the maximum dimensions of the pipes laid or to be laid along the wayleave lands for the purposes of the second party's own water supply shall be fixed by the said John Alexander Warren and George Somervel Carfrae within three months from the commencement of the Order The sums payable by the second party to the first party for the land to be taken and acquired or occupied as aforesaid and also for the said wayleaves shall be payable to the first party at the first term of Whitsunday or Martinmas after the commencement of the said Order or at the date when the second party shall first break ground upon the estate of Biel whichever date shall first happen and shall bear interest at the rate of five per cent. per annum from the date of payment during non-payment.

Fourth The first party shall allow the agricultural tenant of Hall's Farm an abatement of rent for land taken or occupied by the second party as aforesaid from and after the date of payment provided in the immediately preceding article of this agreement and the second party shall free and relieve the first party of and shall settle all claims competent to her tenants other than the claim of the said tenant of Hall's Farm for the foresaid abatement of rent Further the second party shall indemnify the first party for all temporary damage arising during the construction of the said works as the same failing agree-

ment shall be settled by the said George Somervel Carfrae whom failing Thomas Elder Stevenson Mains Haddington whom failing by an arbiter to be chosen by the parties hereto.

Fifth The second party shall construct and maintain for the use of the first party and her successors in the estate of Biel a regulating tank within the limits of deviation situate near the intake on the Cauld Burn into which the existing supply from the spring for the Little Spott Pipe and the spring about forty yards to the south thereof will be conducted and connected there with the Little Spott Pipe which Little Spott Pipe with relative pipes cocks tanks and others in so far as situated on the estate of Biel shall also be maintained by the second party.

Sixth The second party shall at a lower level than their own connection make and maintain a connection between the well known as Moses Well and the said regulating tank so as to give a preferential supply from the said well to the Little Spott Pipe and also cause a pipe not exceeding three-quarters of an inch in diameter to be laid with a ball valve thereon between the Main Outlet Pipe (Work 3) leading from the Reservoir (Work 1) to the said regulating tank so that in the event of the water from the foresaid springs and well not being sufficient at any time for supplying the Little Spott Pipe the supply may be maintained from the Reservoir (Work 1) The first party and her successors in the estate of Biel and her or their tenants thereon shall be entitled free of charge to the water in the Little Spott Pipe for the supply of Little Spott Farm house and steading and the houses (built and to be built) and fields on said estate through or past which the Little Spott Pipe runs and such water as remains in the Little Spott Pipe after all purposes of the first party and her foresaids have been satisfied shall be for the supply (free of charge) of the estate of Bourhouse and the property of Wester Broomhouse The present free supply of water from the second party's main pipe to the keeper's house at the Compensation Reservoir (Work 5) shall be continued in future and the appliances therefor be maintained by the second party at their own expense.

Seventh The second party shall provide and maintain water troughs of an available length of six feet with a constant supply of water to be placed in suitable positions in the fields numbered 285 260 283 256 253 241 and 258 on the Ordnance Survey plan of the parish of Spott (1898 edition) also a lead pipe not exceeding three-quarters of an inch in diameter with a tap for a supply of water to the sheep dipper in Field No. 258 on the said Ordnance Survey plan.

Eighth Any questions arising in regard to the stipulations contained in the three immediately preceding articles of this agreement shall be determined by the engineer for the time being of the first party or her successors in the estate of Biel.

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Ninth The second party shall construct the Road of Access (Work 4) as close to the side of the Cauld Burn as practicable and in the construction of said road they shall take all precautions to prevent any banking or material falling or sliding into the said burn and the second party shall construct new gateways in the wall where said road leaves the public road and between the fields numbered 285 and 260 of said before-mentioned Ordnance Survey map and provide new ten feet gates for same and shall build up the existing gateway between said fields numbered 285 and 260 after the new gate is available for the farm tenant The Road of Access (Work 4A) shall be constructed in the line shown on the deposited plans.

Tenth The second party shall after providing the water troughs and water supply therefor hereinbefore referred to (or temporary water supplies in lieu thereof during construction of works) and before commencing to construct the said new Reservoir (Work 1) and Road of Access (Work 4) fence the ground to be occupied by the said new reservoir with a permanent fence and the said road of access with a suitable temporary fence The said permanent fence shall be of such a character as shall be satisfactory to the first party and as shall prevent all kinds of stock getting access to the said new reservoir The second party shall provide the first party and her successors in the estate of Biel with keys for the gates leading to the said reservoirs.

Eleventh The second party shall make good any drains interfered with either in the construction of the said new reservoir and the said roads of access or the laying of the water pipes and in the case of any such interference shall if necessary lay new main drains to intercept and carry surface and subsoil water to the burn all to the satisfaction of the engineer of the first party.

Twelfth The second party shall fix and maintain iron stakes in the said new reservoir at the south-west end to indicate the march between Biel and Ruchlaw Estates.

Thirteenth The second party shall fence the east end of the north boundary and along the east boundary of the said Compensation Reservoir (Work 5) and shall maintain the whole fencing gates and stiles erected or to be erected by them at or adjoining the said reservoirs and roads of access in an efficient and satisfactory manner all to the satisfaction of the engineer for the time being of the first party or her successors in the estate of Biel.

Fourteenth The second party hereby agree to the following reservations conditions and stipulations (that is to say):—

(1) The minerals shall be reserved to the owners of the estate of Biel for the time being:

(2) The exclusive right of fishing and shooting on the Compensation Reservoir (Work 5) and also on the new Reservoir (Work 1)

so far as the latter reservoir is situated on the estate of Biel shall with the right of access to said reservoirs be reserved to the first party and her successors in the estate of Biel as her or their property with power to the first party and her foresaids to stock both reservoirs with fish to erect and maintain a boathouse at each reservoir and to put one boat on the new reservoir and a boat or boats on the compensation reservoir and with the view of the preservation of the fish the second party shall not draw off the water in either reservoir to a lower level than five feet above the water run of the respective outlet pipes except for the purposes of cleaning or repairing the reservoirs and shall give not less than a week's written notice to the first party of the intention to draw off the water for such purposes Both reservoirs to be kept free of weeds by the second party who shall cut and remove at regular periods any weeds appearing:

(3) After the completion of the new Reservoir (Work 1) and as regards the existing Compensation Reservoir (Work 5) from the commencement of the Order the second party shall only be entitled to have access to both reservoirs by the Roads of Access (Works 4 and 4A) for the purpose of inspecting the works or regulating the water supply or compensation water to the burn or repairing the works or any part of same or for any other lawful purpose connected with the said water-works and no person other than the second party or their contractor or persons engaged in the business of the second party's water supply or works shall have access to the reservoirs so far as the same are situated on the estate of Biel The first party and her successors in the estate of Biel and her or their tenants shall be entitled to use the foresaid roads of access to the respective reservoirs:

(4) No water shall be abstracted by the second party from the Dean Burn or from any of the other burns on Halls Pathhead or Little Spott except by the prescribed intakes namely Intake (Work 8) on the Cauld Burn and Intake (Work 10) on the Cross Burn without the consent in writing of the first party or her successors in the estate of Biel:

(5) All materials in connection with the construction or maintenance of the new Reservoir (Work 1) shall be conveyed along the public roads and thence along the new Road of Access (Work 4) to be formed thereto No carting or traffic of any description will be permitted on Halls private road from the public road at Burnhead and with the view of minimising trespass with consequent damage and loss to

the agricultural and shooting tenants a special clause shall be inserted in the contract for construction of said works prohibiting trespass on any account whatever on pain of instant dismissal:

(6) All cess minister's stipend county poor and school rates and all other local public or parochial burdens whatever imposed or to be imposed on the lands to be acquired or occupied as aforesaid and on the pipes laid or to be laid as aforesaid shall be paid by the second party:

(7) The whole works shall be kept in repair by the second party after completion and they shall pay to the first party or her successors in the estate of Biel and her or their tenants all damage that may be occasioned by the failure of said works or repairing or altering the same or by maintenance operations from time to time.

Fifteenth Upon payment of the sums that shall ultimately be ascertained to be due by the second party to the first party as aforesaid and interest thereon the first party shall subject to the reservations conditions and stipulations foresaid grant a formal conveyance in favour of the second party of the land to be taken as aforesaid and of the said servitude rights of access and wayleave The said conveyance shall also contain a clause expressed in terms to be settled by Messrs. Dundas and Wilson clerks to the signet Edinburgh providing that the servitude wayleave for the Little Spott Pipe to the march between the estates of Biel and Bourhouse is only for the conveyance to that point (the said march) for the use of Bourhouse and Wester Broomhouse of such water as the first party and her successors in the estate of Biel and her or their tenants may not require and setting forth that the proprietors of Bourhouse and Wester Broomhouse shall only be entitled to such water in said pipe as may remain after all purposes of the first party and her foresaids have been satisfied.

Sixteenth In respect the first party holds the estate of Biel under entail the compensation payable under the third article hereof shall when due be consigned by the second party in bank in manner provided by and subject to the conditions and provisions contained in the said Lands Clauses Consolidation (Scotland) Act 1845 with reference to owners possessing their land under entail.

Seventeenth The second party shall pay and free and relieve the first party as between agent and client on the client paying scale of the whole costs charges and expenses incurred or to be incurred by her in connection with this agreement or preliminary or incident thereto or arising in connection with the carrying out of same and the conveyance to be granted in favour of the second party and that both as regards her solicitors and engineer and valuator.

Eighteenth This agreement shall be scheduled to the said Provisional Order and shall be subject to the approval of Parliament and to such alterations as the Secretary for Scotland or Parliament shall think fit to make thereon but if any material alteration is made thereon either party to it shall be at liberty to withdraw therefrom and in that event or in case the said Provisional Order with this agreement scheduled thereto shall not be confirmed by an Act of Parliament the arrangement contained in this agreement shall become null and void and both parties shall be free from the whole terms conditions and stipulations thereof except that the second party shall pay to the first party the whole costs charges and expenses so far as incurred by her provided for under head seventeenth thereof.

Nineteenth The quantities of water hereinbefore agreed to be given by the second party shall so far as supplied to and taken on behalf of the estate of Biel be supplied and taken under the provisions of the said Order with respect to the prevention of waste of water but subject always to and under reservation of any present rights as to water supply of the present tenants of the estate of Biel or parties in their right and declaring that the second party shall not as regards such tenants and their foresaids exercise or enforce the said provisions in any manner inferring legal recourse by the said tenants or their foresaids against the first party or her representatives or her successors in the estate of Biel and further declaring that nothing in this section contained shall be construed as empowering the second party to lessen the diameter of the Little Spott Pipe or diminish the supply of water hereinbefore provided to be delivered by that pipe.

Lastly Any questions (other than questions for the disposal of which special provision is already hereinbefore made) arising between the parties hereto respecting the meaning and intent of these presents are hereby referred to the Dean of the Faculty of Advocates for the time being whom failing the Vice-Dean of the said Faculty as sole arbiter to determine the same and both parties consent to the registration hereof for preservation and execution.

In witness whereof these presents written on this and the five preceding pages by James Clark clerk to Messrs. Dundas and Wilson clerks to the signet Edinburgh are (under the declaration that the word "seventeenth" occurring in the second line counting from the top of page sixth hereof was written over erasure before subscription) executed in duplicate by the parties hereto as follows (videlicet) They are sealed with the seal of the royal burgh of Dunbar and subscribed on behalf of the provost magistrates and councillors of said royal burgh by George Low provost of said royal burgh and Robert White town clerk of said royal burgh at Dunbar on the twenty-fourth day of January in the year nineteen hundred and twelve before these

A.D. 1912

witnesses Alexander Campbell inspector of police Dunbar and Joseph Dodd burgh officer Dunbar and are signed by the said Mrs. Mary Georgiana Constance Nisbet Hamilton Ogilvy at Biel on the twenty-sixth day of January in the year last-mentioned before these witnesses the Right Reverend George Henry Somerset Walpole Bishop of Edinburgh residing at Number One Eglinton Crescent Edinburgh and William Simpson Curr Factor Ninewar Prestonkirk.

G. H. S. WALPOLE Bishop of Edinburgh Witness.
W. S. CURR Witness.
A. CAMPBELL Witness.
JOSEPH DODD Witness.

L.S.

M. G. CONSTANCE NISBET HAMILTON OGILVY.
GEORGE LOW Provost.
ROBT. WHITE Town Clerk.

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