CHAPTER lxviii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Dundee Water. [30th June 1905.]

A.D. 1905.

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 Dundee Water Order Confirmation Act 1905.

[*Price* 1*s.* 9*d.*]

A.D. 1905.

SCHEDULE.

DUNDEE WATER.

Provisional Order to empower the Dundee Water Commissioners to construct additional Waterworks to further extend their limits of supply and of compulsory supply and for other purposes.

WHEREAS the Dundee Water Commissioners (hereinafter called "the Commissioners") were incorporated by the Dundee Water Act 1869 (hereinafter called "the Act of 1869") and supply water to the burgh of Dundee and suburbs and places adjacent within the limits of supply and of compulsory supply as defined by that Act and extended by the Dundee Water Act 1882 (hereinafter called "the Act of 1882") and the Dundee Water Act 1891 (hereinafter called "the Act of 1891"):

And whereas in order to provide for the greater purity of the water supplied by the Commissioners from their reservoirs at Monikie and Crombie it is necessary and expedient that they should be authorised to make and maintain the Works Nos. 1 2 3 and 4 hereinafter described and it is also expedient to strengthen and increase the carrying capacity of their aqueduct conduit or line of pipes from their reservoir at Lintrathen to Dundee by the construction of the Work No. 5 hereinafter described:

And whereas it is expedient that the limits for the supply of water by the Commissioners as specified in the said Acts should be extended as in this Order provided:

And whereas the Commissioners at present supply water to the burgh of Carnoustie in the county of Forfar under an agreement dated the fifteenth and twentieth days of April one thousand eight hundred and ninety-six entered into between them and the then commissioners of the burgh of Carnoustie as the local authority under the Public Health Acts who are now represented under the provisions of the Burgh Police (Scotland) Acts 1892 to 1903 and the Town Councils (Scotland) Act 1900 by the provost magistrates and councillors of the burgh of Carnoustie (in this Order called "the Carnoustie Town Council") which agreement will expire on the fifteenth day of May one thousand nine hundred and six:

And whereas the said commissioners of Carnoustie by the said agreement bound themselves inter alia to provide all wayleaves

necessary for pipes and works and also a meter house and further agreed to provide lay down and maintain all the piping and works necessary for such supply of water under the said agreement and they accordingly provided the said wayleaves and executed the said works and other works in connection therewith:

And whereas it has been agreed between the Commissioners and the Carnoustie Town Council that subject to the sanction of Parliament the limits for the compulsory supply of water by the Commissioners as specified and defined in the Act of 1869 the Act of 1882 and the Act of 1891 should be extended so as to include therein the said burgh of Carnoustie and it is expedient that the said limits for compulsory supply should be extended accordingly:

And whereas it is also expedient that the Commissioners should be authorised to raise further money for the purposes of the works to be authorised by and the other purposes of this Order and for the general purposes of their undertaking and that they should be enabled to create and issue additional debenture stock in manner specified in this Order:

And whereas it is expedient that the other powers hereinafter mentioned should be conferred on the Commissioners in relation to their undertaking:

And whereas plans and sections showing the lines and levels of the works authorised by this Order 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 and other property required or which may be taken for the purposes or under the powers of this Order were duly deposited in the offices at Forfar Dundee and Arbroath respectively of the principal sheriff clerk of the county of Forfar and in the offices at Perth and Dunblane respectively of the principal sheriff clerk of the county of Perth and are hereinafter respectively referred to as the deposited plans sections and books 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 citation of Order and Acts.

1. This Order may be cited for all purposes as the Dundee Water Order 1905 and this Order and the recited Acts (as

A.D. 1905.

hereinafter defined) may be cited together as the Dundee Water Acts 1869 to 1905.

Incorporation of general Acts.

2. 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 provisions with respect to the communication pipes to be laid by the Undertakers and also the provisions 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 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:

Provided always as regards the said last-mentioned Act that the said clauses and provisions shall be read so as to apply only to the Works Nos. 1 2 3 and 4 by this Order authorised and the works immediately connected therewith and as if such works were therein referred to instead of "the railway" and as if the boundaries of the said works were therein mentioned instead of "the centre of the railway" and as if the commissioners were therein mentioned instead of "the company."

Interpretation.

3. The several words and expressions to which by the Acts wholly or partly incorporated herewith meanings are assigned shall in this Order have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "the recited Acts" means and includes the following Acts (that is to say) The Act of 1869 the Dundee Water Extension Act 1871 the Dundee Water Amendment Act 1872 the Dundee Water (Additional Powers) Act 1874 the Act of 1882 the Act of 1891 and the Dundee Corporation Act 1894 so far as relating to the Commissioners and their undertaking;

The expression "the commencement of this Order" means the date of the passing of the Act confirming this Order.

A.D. 1905.

Power to make works and take lands &c.

4. Subject to the provisions of this Order the Commissioners may make and maintain in the lines and situations and according to the levels shown on the deposited plans and sections the works hereinafter described and shown on the deposited plans with all proper approaches works and conveniences connected therewith and may enter on take and use such of the lands described in the deposited plans and books of reference as they require for those purposes The works hereinbefore referred to and authorised by this Order are—

(1) Four filter beds (Work No. 1) in the parish of Murroes and county of Forfar in a field forming part of the farm of Easterton of Gagie commencing at the well marked "Filtering Well" and numbered 241 on the Ordnance survey map (scale $\frac{1}{2500}$ being 25·344 inches to the mile) of the said parish published in 1902 and known as "Gagie Well" belonging to the Commissioners which is situated at the termination of the Commissioners' existing stone aqueduct from Monikie commonly called Gagie Aqueduct and terminating four hundred feet or thereby to the eastward of the said Gagie Well:

(2) A clear water basin or reservoir (Work No. 2) in the parish of Murroes and county of Forfar the centre whereof will be a point where a straight line two hundred feet or thereby in length drawn in a southerly direction from the centre of the said Gagie Well would intercept another straight line two hundred and eighty feet or thereby in length drawn in a northerly direction from the north-west corner of the farm steading of Easterton of Gagie:

(3) Two filter beds (Work No. 3) in the parish of Panbride and county of Forfar in the south-west corner of the field forming part of the farm of Mains of Panmure numbered 171 on the Ordnance survey map (scale $\frac{1}{2500}$ being 25·344 inches to the mile) of the said parish of Panbride published in 1902:

(4) A clear water basin or reservoir (Work No. 4) in the parish of Panbride and county of Forfar the centre whereof will be a point where a straight line two hundred and eighteen feet or thereby in length measured eastward from the east gable of the cottar houses of the farm of Mains of Panmure would intercept

A.D. 1905.

another straight line one hundred and sixty-eight feet or thereby in length drawn in a north-easterly direction from the point forming the junction of the east boundary of the public road leading to Monikie from the public road between Dundee and Arbroath and the north boundary of the private road leading to Panmure policies opposite the private road leading to the farm of Mains of Panmure:

(5) An aqueduct conduit or line of pipes (Work No. 5) commencing in the parish of Alyth and county of Perth in and by a junction with the existing line of pipes of the Commissioners firstly described in and authorised by the Dundee Water Amendment Act 1872 at a point five yards or thereabouts northward from the north wall of the sluice house on said existing line of pipes commonly called the Shangie Sluice House and terminating by a junction with the said existing line of pipes in the parish of Newtyle and county of Forfar at a point eighty yards or thereabouts measured in a straight line north-eastwards from the north-east corner of the dwelling-house of Hatton of Newtyle in the said parish of Newtyle.

Powers as regards maintenance and improvement of works.

5. The Commissioners may subject to the provisions of this Order in connection with the works or any of them authorised by this Order make lay erect and maintain such embankments dams weirs channels sluices catch-water drains culverts cuts aqueducts tunnels bridges roads cisterns gauges main and distributing pipes buildings dwelling-houses for servants and other works and conveniences as may be necessary or expedient for effecting or carrying out the objects or purposes of this Order or any of them and the Commissioners may subject as aforesaid from time to time on or within any of their lands or on or over any lands on or over which they by agreement have or may acquire right so to do alter replace enlarge and increase the number and size of the works (other than reservoirs) conduits aqueducts mains and pipes authorised by the recited Acts and this Order and may from time to time 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 the recited Acts and this Order.

Portions of an existing pipe may be

6. The Commissioners may disjoin uplift remove and appropriate the existing line of pipes of the Commissioners firstly

described in and authorised by the Dundee Water Amendment Act 1872 from the commencement to the termination of the aqueduct conduit or line of pipes being Work No. 5 by this Order authorised and hereinbefore described and the value of the portion of the said existing line of pipes so appropriated as such value shall be certified by the engineer of the Commissioners for the time being shall be credited to capital in the accounts of the Commissioners. A.D. 1905. disjoined and appropriated.

7. Where the line of any work shown on the deposited plans passes along any road and limits of lateral deviation are not marked thereon the Commissioners may in constructing the works deviate laterally from the lines thereof as laid down on those plans to the extent of the boundaries of the road and elsewhere the Commissioners may in constructing the works by this Order authorised deviate laterally from the lines thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon. Limits of lateral deviation.

8. In the construction of the works authorised by this Order the Commissioners may deviate vertically from the levels shown on the deposited sections in the case of the Works Nos. 1 2 3 and 4 to any extent not exceeding five feet and in the case of the Work No. 5 to any extent not exceeding five feet upwards or seven feet downwards : Limits of vertical deviation.

Provided as follows (that is to say) :—

The Commissioners 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 three feet in addition ;

Except for the purposes of crossing over a stream no part of the pipes shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

9. The Commissioners may on any lands which they may acquire under the powers of this Order or otherwise construct all such drains channels and other works as they think necessary or desirable for preventing sewage or polluting liquids from entering or polluting the reservoirs conduits or watercourses of the Commissioners or any waters flowing into the same. For protection of waterworks from pollution.

10. The Commissioners may subject to the provisions of this Order take by agreement and any person by the Lands Clauses Power to agree for servitudes &c.

A.D. 1905.

Acts or otherwise enabled to sell and convey or dispose of lands may grant to them any estate servitude interest right or privilege (not being a servitude of water in which persons other than the grantors have an interest) in over affecting or belonging to lands at a price or yearly rent feu duty or otherwise but in the case of a person not enabled otherwise than by the said Acts to sell lands then subject and according to the provisions relative to the taking of lands by agreement contained in the said Acts and for the purposes of this section any such estate servitude interest right or privilege shall be deemed to be lands within the meaning of those Acts.

Power to acquire servitudes only for lines of pipes.

11. The Commissioners may in lieu of acquiring any lands for the purpose of the aqueduct conduit or line of pipes by this Order authorised acquire such servitudes and rights 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 rights 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 and rights as fully as if the same were lands within the meaning of such Acts:

Provided that nothing herein contained shall authorise the Commissioners to acquire by compulsion any such servitude in any case in which the owner in his particulars of claim shall require the Commissioners 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 that as regards any lands taken or used by the Commissioners for the purpose of making such aqueduct conduit or line of pipes the Commissioners shall not (unless they give notice to treat for and have acquired such lands and not merely servitudes therein) be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall at all times after the completion of the works have the same rights of passing over such lands for all purposes of or connected with the use or enjoyment of the adjoining lands as if such lands had not been taken or used by the Commissioners.

Power to acquire and hold lands

12. The Commissioners may by agreement purchase acquire and hold any lands within the drainage area of the works by this

Order authorised or acquire servitudes or restrictions over or acquire by lease for such period of years as they may think fit any such 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 Commissioners and of protecting their water supply against pollution nuisance encroachment or injury and so long as such necessity shall continue such lands to be acquired shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Acts Provided that the Commissioners shall not create or permit any nuisance on the lands which may be so acquired and 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.

for protection of works and prevention of pollution.

The Commissioners may from time to time let for such period as they think fit or sell or feu any land acquired under this section or any land or property already acquired by agreement and at present held by them and which is not required for the purposes of their undertaking on such terms conditions and restrictions as regards its use as to the Commissioners 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 Commissioners shall only be applied to purposes of this Order to which capital is properly applicable.

13. In addition to the lands authorised to be taken and acquired under the powers of this Order the Commissioners may purchase by agreement lands not exceeding ten acres for the purposes of depots pipe yards and other buildings and conveniences in connection with their undertaking but nothing in this Order shall exonerate the Commissioners from any action interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land 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 Commissioners.

Lands for extraordinary purposes.

14. And whereas in the construction of the works by this Order authorised or otherwise in the exercise by the Commissioners of the powers of this Order it may happen that portions only of certain properties shown or partly shown on the deposited plans

Owners may be required to sell parts only of certain properties.

A.D. 1905.

will be sufficient for the purposes of this Order or any of them and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect :—

(1) The owner of and persons interested in any of the properties whereof the whole or part is described in the Schedule to this Order and whereof a portion only is required for the purposes of this Order or each or any of them are hereinafter included in the term "the owner" and the said properties are hereinafter referred to as "the scheduled properties":

(2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Commissioners that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Commissioners such portion only without the Commissioners being obliged or compellable to purchase the whole the Commissioners paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise:

(3) If within such twenty-one days the owner shall by notice in writing to the Commissioners allege that such portion cannot be so severed the jury arbiter or arbiters or other authority to whom the question of disputed compensation shall be submitted (hereinafter referred to as "the tribunal") shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Commissioners have compulsory powers of purchase) can be so severed:

(4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder

without material detriment thereto the owner may be required to sell and convey to the Commissioners the portion which the tribunal shall have determined to be so severable without the Commissioners being obliged or compellable to purchase the whole the Commissioners paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal:

(5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the arbitration or inquiry shall be borne and paid by the owner:

(6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Commissioners may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice:

(7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Commissioners in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation (Scotland) Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that

A.D. 1905.

any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

Restriction on taking houses of labouring class.

15.—(1) The Commissioners shall not under the powers of this Order purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1897 ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

(2) If the Commissioners acquire or appropriate any house or houses in contravention of the foregoing provision they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

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

For protection of Caledonian Railway Company.

16. For the protection of the Caledonian Railway Company (in this section called "the company") the following provisions shall unless otherwise agreed between the Commissioners and the company have effect (that is to say):—

(1) In carrying the aqueduct conduit or line of pipes (Work No. 5) in through under or across the railways and property of the company at Jordanstone Station and Meigle Station the Commissioners notwithstanding the limits of deviation by this Order authorised shall not without the consent of the company deviate the same

laterally or vertically to a greater extent than eighteen inches from the line and level thereof as shown on the deposited plans and sections Provided that the said aqueduct conduit or line of pipes shall be carried under the company's railways within the existing culvert carrying the existing line of pipes under the said railways and the Commissioners shall not be entitled to raise the top level of the said existing culvert or to construct any additional culverts or extend any existing culvert at a higher top level than the existing culvert and shall only be entitled under the powers of this Order to take or acquire a servitude or wayleave right in through under or across the company's railways and property at the said stations for the construction of the said aqueduct conduit or line of pipes or any eyes manholes or scourcocks in connection therewith:

(2) The said aqueduct conduit or line of pipes where the same crosses under the company's Alyth branch and main line of railway at Alyth Junction Station shall be constructed so far as situated in through under or across the company's railway and property in the same line and at the same level in relation to the existing lines of rails as the existing line of pipes where it passes under and across the existing lines of rails of the said Alyth branch and main line of railway at said station and notwithstanding the limits of deviation by this Order authorised the Commissioners shall not without the consent of the company deviate said aqueduct conduit or line of pipes either laterally or vertically to a greater extent than eighteen inches from the line and level thereof as shown on the deposited plans and sections Provided that the said aqueduct conduit or line of pipes shall be carried under the company's railways within the existing culvert carrying the existing line of pipes under the said railways and the Commissioners shall not be entitled to raise the top level of the said existing culvert or to construct any additional culvert or extend any existing culvert at a higher top level than the existing culvert and all eyes manholes and scourcocks in connection with the existing line of pipes in or under the company's railways and property at said station shall be removed

A.D. 1905.

by the Commissioners from the company's said railways and property and the Commissioners shall not be entitled under the powers of this Order to construct any new or additional eyes manholes or scourcocks in or under the said railway and property and shall only be entitled under the powers of this Order to take or acquire a servitude or wayleave right in through under or across the company's railways and property at the said station for the construction of the said aqueduct conduit or line of pipes or any eyes manholes or scourcocks in connection therewith:

(3) The Commissioners shall give not less than twenty-one days' notice in writing to the company of the intention to commence the construction and execution of the said aqueduct conduit or line of pipes or other works at and in the vicinity of the company's said railways and property and shall at the same time submit detailed plans and sections and specifications for the approval of the company and if the company do not within twenty-one days after such submission signify in writing disapproval of such plans and sections and specifications they shall be deemed to be approved and if within the said period of twenty-one days the company signify in writing disapproval of such plans and sections and specifications or make any requirements in relation thereto to which the Commissioners do not agree any difference arising therefrom shall be determined by an arbiter to be appointed failing agreement by the Board of Trade in manner hereinafter provided:

(4) The said aqueduct conduit or line of pipes and other works at and in the vicinity of the company's railways and property shall be maintained by the Commissioners in all time coming in a state of proper repair and at the sole risk of the Commissioners:

(5) The Commissioners shall not enter upon or interfere with the company's railways or property further or otherwise than may be necessary for constructing the said aqueduct conduit or line of pipes and other works in the manner before provided and they shall not alter or interfere with the lines of rails or levels

of the company's railways or property and shall only acquire such servitude in through under or across the railways and property of the company as may be required for the making maintaining repairing and using the works of the Commissioners in manner before provided:

(6) All works and operations of the Commissioners shall be constructed and executed and done so as not to cause any injury to the company's railways or any interruption to the passage or conduct of the traffic over the railways and if any such injury or interruption shall arise from or be in any way owing to the works or operations of the Commissioners or the bursting or leakage of the said aqueduct conduit or line of pipes or other works of the Commissioners the Commissioners shall make good or remove such injury or interruption at their own expense or the company may do the same and the Commissioners shall pay to the company all costs and expenses loss or damage incurred or sustained by them in consequence thereof:

(7) In the event of any damage being caused to the company's railways or the works connected therewith during and in consequence of the operations connected with the laying of the said aqueduct conduit or line of pipes over and under the same or at any time thereafter the Commissioners shall be liable to the company for the actual amount of such damage as the same shall failing agreement be ascertained by an arbiter to be appointed by the Board of Trade as hereinafter provided:

(8) If any difference shall arise between the Commissioners and the company or between their respective engineers as to any matter arising under the provisions of this section or as to any plans or sections working drawings or specifications or the mode of executing any works or as to any costs loss or damage provided for in this section such difference shall be determined by an arbiter to be appointed failing agreement by the Board of Trade on the application of the Commissioners or the company and the costs of any such reference shall be borne and paid as the arbiter shall direct.

A.D. 1905.

For protection of county council of Forfarshire.

17. The following provisions shall have effect for the benefit and protection of the county council of the county of Forfar (in this section called "the county council") unless otherwise agreed in writing between the county council and the Commissioners (that is to say):—

(1) If at any time it appears to the county council or to any Committee thereof including the district committees of the Arbroath and Forfar districts of the said county acting in their respective districts (in this section called "the district committees") that having regard to the average expense of renewing maintaining or repairing the highways roads and bridges maintainable and repairable by them in the neighbourhood of any of the works authorised by this Order extraordinary expenses have been incurred by the county council or such committees in renewing maintaining or repairing any of such highways roads or bridges by reason of extraordinary traffic thereon caused by or arising in consequence of the execution of any such works the Commissioners shall pay to the county council the amount of such extraordinary expenses and failing agreement as to the amount thereof the county council may recover in a summary manner from the Commissioners such amount as may be proved to the satisfaction of the sheriff to have been incurred by the county council or any of such committees in respect of such extraordinary traffic aforesaid:

(2) A clear and sufficient carriageway shall be kept for the passage of carriages and traffic along every highway road and bridge during any interference therewith by the Commissioners and in case of default in compliance with this provision the district committees of the county council may by their own servants and workmen clear any such carriageway and may recover the expenses of and incident thereto from the Commissioners:

(3) Nothing in this Order shall interfere with the right of the county council to alter the level of or deviate or improve in any manner they may think fit any highway or road in or across which any pipe of the Commissioners shall be laid or to renew widen or improve

any bridge on or near which any such pipe shall be laid and the Commissioners shall forthwith on receiving notice in writing under the hand of the clerk to the county council so to do alter the position of the said pipes in the manner and to the extent prescribed by such notice:

(4) If any difference arise between the county council and the Commissioners touching subsections (2) and (3) of this section or anything to be done or not to be done thereunder such difference shall be determined by an arbiter to be appointed by the sheriff of the county of Forfar on the application of either party and the decision of the said arbiter shall be binding and conclusive on all parties:

(5) The Commissioners shall construct and maintain in connection with the aqueduct conduit or line of pipes by this Order authorised crossing or passing along any highway or road hydrants or other suitable apparatus or appliances for taking water from the said pipes which shall be placed along and at the side of such highways or roads and in such positions as shall be arranged between the Commissioners and the district committees and the county council but the Commissioners shall not be bound to place more than one such hydrant in each of the portions of highway or road across or along which the said aqueduct conduit or line of pipes passes and the district committees shall be entitled to the use of the same and to take water thereby free of charge through their servants and workmen for the purpose of their road engines and the renewal maintenance and repair of highways and roads and bridges and the extinguishing of fires but the water shall not be so taken or used for any other purpose unless otherwise agreed upon as aforesaid:

(6) The Commissioners shall make full compensation to all persons (including the county council and the district committees) for all damage and injury losses and expenses whatsoever which they may from time to time sustain by reason or in consequence of the bursting or giving way of the reservoirs or of the aqueduct conduit or line of pipes by this Order

A.D. 1905.

authorised and of the flooding that may be thereby occasioned:

(7) The provisions of this section shall apply only to the aqueduct conduit or line of pipes by this Order authorised and shall not apply to the renewal or repair of any works of the Commissioners heretofore constructed or authorised or affect the powers which the Commissioners presently possess in connection with their existing works.

Period for compulsory purchase of lands.

18. The powers of the Commissioners 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.

19. If the works authorised by this Order are not completed within seven years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Commissioners for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Commissioners from extending enlarging altering replacing increasing or removing any of their engines machinery conduits filter-beds aqueducts mains or pipes or improving their supply of water at any time and from time to time as occasion requires subject to the provisions of this Order.

Commissioners to assume balance of Carnoustie water debt and works vested in them.

20. The Commissioners shall as from and after the fifteenth day of May one thousand nine hundred and six relieve the Carnoustie Town Council of the balance remaining due of the principal moneys borrowed by the Carnoustie Town Council or their predecessors as local authority of the burgh of Carnoustie for the purposes of the construction of their existing waterworks after payment by them of all instalments of principal and of all interest due and payable by them at and prior to the said date in respect of such borrowed moneys and thereupon the whole reservoirs water mains pipes valves plant apparatus and generally the whole water undertaking of and presently belonging to the Carnoustie Town Council and which were constructed laid down and provided for the purpose of supplying water to the said burgh of Carnoustie together with all title deeds plans reports and other documents relating thereto shall subject to and under burden of all feu-duties way-leave rent and other periodical

payments and obligations affecting the water undertaking of the Carnoustie Town Council as from and after the said fifteenth day of May one thousand nine hundred and six become the property of and are hereby vested in the Commissioners and shall form part of the undertaking of the Commissioners in all respects as if the same had been constructed and provided by them under powers contained in the recited Acts:

Provided that should there be any surplus from any water rate levied by the Carnoustie Town Council prior to the said fifteenth day of May one thousand nine hundred and six such surplus shall effeir and belong to them and be credited to their ordinary assessments account and in like manner should any deficiency arise from any such water rate prior to the said date such deficiency shall be borne and paid by the Carnoustie Town Council from the sums raised under their ordinary assessments.

Extension of limits and of compulsory limits of supply.

21. Subject to the provisions of this Order the limits of supply specified in the Act of 1869 as extended by the Act of 1882 and the Act of 1891 are hereby further extended to and shall comprise and include the following additional area in the parishes of Monikie Barry and Panbride and county of Forfar viz.:—

The area embraced by a line drawn from the north-east corner of the said existing limits at the junction of the public road leading from Dundee to Arbroath commonly called the Arbroath Road with the public road leading from Monifieth to Newbigging of Monikie to and thence in a north-easterly direction along the north side of the said Arbroath Road to a point thereon which would be intersected by the prolongation of the eastern side of the public road leading from Carlogie to Carnoustie commonly called Carlogie Road thence south-eastwards and southwards along the eastern side of the said Carlogie Road to the point of junction thereof with the present boundary of the burgh of Carnoustie thence following the eastern boundary of said burgh of Carnoustie to low-water mark of ordinary spring tides and thence southwards and westwards along low-water mark to the south-east corner of the said existing limits and thence along the eastern boundary of the said existing limits to the point of commencement:

And the limits of compulsory supply specified in the Act of 1869 as extended by the Act of 1882 and the Act of 1891 are hereby

A.D. 1905.

further extended to and shall comprise and include the burgh of Carnoustie as at present constituted and the provisions of the recited Acts and this Order shall apply to the said extended limits respectively as fully and effectually as they apply to the limits of supply and the limits of compulsory supply respectively specified in the Act of 1869 the Act of 1882 and the Act of 1891 Provided that the domestic water rate provided by section 45 of the Act of 1869 to be assessed and levied by the Commissioners as therein mentioned shall in like manner be assessed and levied by them within the burgh of Carnoustie from and after the said fifteenth day of May one thousand nine hundred and six to the same amount as the said rate shall for the time being be assessed and levied by the Commissioners within the remaining parts of their limits of compulsory supply Provided also that the public water rate provided by section 46 of the Act of 1869 to be assessed and levied by the Commissioners as therein mentioned shall in the manner and subject to the exceptions and limitations mentioned in that section be assessed and levied by them within the said burgh of Carnoustie for a period of twenty-five years from and after the fifteenth day of May one thousand nine hundred and six at the rate of fourpence halfpenny in the pound of the real rent or full annual value of all lands and heritages within the said burgh subject to the exceptions and limitations specified in the said section and that from and after the expiry of the said period of twenty-five years the said public water rate shall be assessed and levied by the Commissioners within the said burgh to the same amount as that rate shall for the time being be assessed and levied by the Commissioners within the remaining parts of their limits of compulsory supply.

Transitory provisions as to Carnoustie waterworks.

22. The Carnoustie Town Council shall until the fifteenth day of May one thousand nine hundred and six maintain and uphold their existing waterworks in proper order and repair and regularly bear and pay all instalments in extinction of moneys borrowed by them or their predecessors as local authority of the burgh of Carnoustie for the purposes of the construction of such waterworks and also all interest and periodical payments and outlays and other payments in respect thereof and of their said existing waterworks as the same fall due Provided that they shall not make any addition to capital account applicable to their said existing waterworks nor construct or lay down any works the cost of which would be properly chargeable to capital account unless with the express consent of the Commissioners previously had and obtained.

A.D. 1905.

Rate for supply for domestic purposes beyond limits for compulsory supply.

23. Notwithstanding anything to the contrary contained in the recited Acts and particularly in section 48 of the Act of 1869 it shall be lawful for the Commissioners to levy for or in respect of the supply of water for domestic purposes to any person within the limits of supply who is not entitled to demand such supply a rate not exceeding the amount of the domestic water rate which shall be levied at the time with fifty per centum of the amount of the said rate in addition thereto.

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

24. For the purpose of executing any necessary work of repair or of cleansing or of examining any of the waterworks of the Commissioners the Commissioners may cause the water in any such works to be temporarily discharged into any available stream or watercourse In the exercise of the power conferred by this section the Commissioners 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.

Power to establish communication with works by means of electricity.

25. The Commissioners may establish and maintain such wires and apparatus for the transmission of messages and other communications wholly or partially by means of electricity or by telephone (which wires and apparatus are in this section called "any such apparatus as aforesaid") as they think expedient or necessary for the better execution of any of the powers or authorities for the time being vested in them and in relation to any such apparatus as aforesaid for the purposes of the Telegraph Act 1863 the Commissioners shall be in the like position in all respects as a company authorised by special Act of Parliament to construct and maintain telegraphs would be or might have been under that Act but nothing in this Order shall authorise the Commissioners to work any such apparatus as aforesaid in consideration of any money payment or any valuable consideration or for any purpose other than the execution of their powers and authorities aforesaid or in contravention of any exclusive privilege by law vested for the time being in the Postmaster-General or to place any such apparatus as aforesaid in over along or across any railway without the consent of the owners or lessees of or company or person working such railway or to construct any such apparatus as aforesaid which shall interfere in any way with any telegraphic line in the possession or under the control of the Postmaster-General or of any owner or lessee of or company or person working any railway and the

A.D. 1905.

Commissioners shall within forty-eight hours of the service on them of a notice in writing by the Postmaster-General in that behalf remove or alter to the satisfaction of the Postmaster-General any such apparatus as aforesaid which in the opinion of the Postmaster-General interferes or will interfere with the efficient or convenient maintaining working or user of any telegraphic line which the Postmaster-General has constructed or desires to construct and in default of such removal or alteration as aforesaid the Postmaster-General may remove or alter any such apparatus as aforesaid at the expense of the Commissioners In this Order the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878.

As to borrowing powers in recited Acts.

26. The powers to borrow and raise money contained in the recited Acts and to grant security or create debenture stock for such borrowed money shall and may be exercised by the Commissioners for the purposes of this Order as well as for the purposes of the recited Acts and the money so borrowed or raised may be applied for the said purposes so far as the same are purposes to which capital is properly applicable.

Power to borrow additional money.

27. In addition to any money which the Commissioners have borrowed or raised or are authorised to borrow or raise under the recited Acts the Commissioners may from time to time under the authority of this Order borrow or raise all such sums as may be requisite for the purposes of the recited Acts and of this Order and of their undertaking not exceeding the sum of fifty thousand pounds on the security of the revenues of the property and works forming their undertaking and of the several rates and charges leviable by them under the provisions of the recited Acts and this Order and if after having borrowed or raised the said sums or any part thereof the Commissioners pay off the same by other means than by the sinking fund it shall be lawful for them again to borrow or raise the amount so paid off and so from time to time.

Security for borrowed money.

28. Subject to the provisions of this Order the money authorised to be borrowed or raised by this Order may be secured by mortgages in terms of and as provided for in the Act of 1869 with regard to the money thereby authorised to be borrowed or may be raised by the creation and issue of debenture stock of the Commissioners in terms of and as mentioned in the Act of 1882 and all the powers forms and provisions of the Act of 1869 and the Act of 1882 with regard to the borrowing or raising of money and the granting and issuing of mortgages therefor and the conversion of

borrowed money into debenture stock shall apply to the money by this Order authorised to be borrowed or raised and to the debenture stock by this Order authorised to be created and issued and to the transfer of mortgages or debenture stock or of deeds of mortgage or debenture stock certificates granted for the same or any part thereof.

Priority and ranking of securities.

29. All annuities created and issued under the Act of 1869 and all mortgages granted and debenture stock created and issued by the Commissioners in pursuance of any of the recited Acts and subsisting at the commencement of this Order shall during the continuance thereof have priority over all mortgages that may be granted and all debenture stock that may be created and issued under this Order and all such last mentioned mortgages and debenture stock shall rank together pari passu and without any preference or priority the one over the other.

Estimates to be made up by Commissioners.

30. The estimate to be made up by the Commissioners under section forty-four of the Act of 1869 and the assessments and rates authorised and required to be levied under sections forty-five and forty-six of that Act shall not only include and be sufficient with the other rates and income of the Commissioners to defray the annual sums or expenditure specified in the recited Acts but also the interest of any money borrowed or raised under the provisions of this Order and the payments to the sinking fund and the expense of maintaining and managing the additional works hereby authorised and all other annual expenditure arising out of or consequent on the works hereby authorised.

Application of rates and charges.

31. Notwithstanding anything in the recited Acts contained the rates and charges levied or leviable under the authority of the recited Acts and this Order and the other income of the Commissioners whether arising under the recited Acts or this Order shall be applied in the following order of priority (that is to say) :—

(Firstly) In defraying the expenses of the management and maintenance of the undertaking of the Commissioners under the recited Acts and this Order including the salaries and other payments to the officers and servants of the Commissioners and the annual costs charges and expenses of providing and supplying water and in payment of any feu duties and ground annuals and other annual payments exigible in respect of any lands streams or property forming part of the said undertaking;

A.D. 1905.

(Secondly) In payment of the perpetual annuities by section twenty-four of the Act of 1869 required to be paid and of the interest on any moneys not exceeding in the whole the sum of eighty thousand pounds now or hereafter borrowed or raised under the authority of that Act;

(Thirdly) In payment of the interest of money which may have been or may be borrowed or raised under the authority of the recited Acts other than the Act of 1869 and this Order or any of them;

(Fourthly) In payment of the sums by the Act of 1891 and this Order directed to be set apart as a sinking fund; and

(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.

Application of borrowed money.

32. The several sums to be borrowed by the Commissioners on mortgage or raised by means of debenture stock under the authority of this Order shall be applied for the purposes of the recited Acts and this Order only being in all cases purposes to which capital is properly applicable.

Protection of lenders from inquiry.

33. Any person lending or paying money under the recited Acts or this Order to the Commissioners shall not be bound to inquire as to the observance by the Commissioners of any provisions of the recited Acts or this Order or of any Act incorporated therewith or be bound to see to the application or be answerable for any loss or non-application of such money or of any part thereof.

Sinking fund for redemption of mortgages and debenture stock &c.

34. From and after the fifteenth day of May one thousand nine hundred and five the Commissioners shall set apart annually as an addition to the sinking fund provided by the Act of 1891 a sum equal to one per centum on the amount of money borrowed or raised by them under the authority of this Order and shall accumulate the same in the way of compound interest by investing the same in or on any security in or on which trust funds may be invested according to the law of Scotland or by way of deposit in any of the banks in Scotland incorporated by Royal Charter or under the provisions of any Act of Parliament.

A.D. 1905.

Application of sinking fund.

35. The Commissioners may at any time and from time to time apply the whole or any part of the sinking fund hereinbefore provided in or towards paying off or redeeming the annuities created and issued under the Act of 1869 or the mortgages made and issued under the recited Acts and this Order or any of them or the debenture stock created and issued under the Act of 1882 the Act of 1891 and this Order or any of them and to no other purposes whatever Provided that they pay into the fund in each year and accumulate for payment from time to time of such annuities mortgages and debenture stock until the whole are paid off or discharged a sum equivalent to the interest (calculated at not less than three per centum per annum) which would have been produced by payments to the sinking fund in respect of money borrowed or raised under this Order in so far as such payments have been applied as aforesaid.

Sinking fund for redemption of annuities &c

36.—(1) In addition to the sinking fund provided by the Act of 1891 and the section of this Order of which the marginal note is "Sinking fund for redemption of mortgages and debenture stock &c." the Commissioners shall in respect of the financial year ending on the fifteenth day of May one thousand nine hundred and eleven and of each subsequent year set aside out of revenue a sum of one thousand pounds and in respect of the financial year ending on the fifteenth day of May one thousand nine hundred and sixteen and of each subsequent year a further sum of one thousand pounds making thenceforward a total annual sum of two thousand pounds as a sinking fund for the redemption of the Dundee Water Annuities granted by the Commissioners under the Act of 1869 so far as such annuities remain for the time unredeemed.

(2) The said annual sums and the income arising therefrom may be invested in or on any security in or on which trust funds may be invested according to the law of Scotland or by way of deposit in any of the banks in Scotland incorporated by Royal Charter or under the provisions of any Act of Parliament.

(3) The sinking fund by this section provided may subject to the provisions of the Act of 1869 in that behalf be from time to time applied to the redemption of the said Dundee Water Annuities.

(4) So far as not so applied such sinking fund may be from time to time applied to the redemption of mortgages debenture stock or other capital indebtedness of the Commissioners.

A.D. 1905.

(5) Whenever any annuity mortgage debenture stock or loan shall have been redeemed out of such sinking fund the Commissioners shall annually pay into that fund (in addition to the annual contribution of one thousand or two thousand pounds as the case may be) the amount of such annuity or of the interest on such mortgage debenture stock or loan which would have been payable if such annuity mortgage debenture stock or loan had not been redeemed.

(6) All annual payments into such sinking fund shall cease when on a certificate of the auditor of the Commissioners the total amount of such payments together with the accumulated interest or produce thereof shall be equal to the capitalised value of the total amount of such annuities whether redeemed or not.

Costs of Order.

37. All costs charges and expenses of and incidental to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation thereto shall be paid by the Commissioners out of the moneys to be raised under the authority of the recited Acts and this Order and if such costs are paid out of moneys to be borrowed the same shall be repaid within five years from the commencement of this Order.

The SCHEDULE referred to in the foregoing Order.

PROPERTIES WHEREOF PORTIONS ONLY ARE REQUIRED TO BE TAKEN.

Parish.	Numbers on deposited Plans.	Description of Property.
WORKS Nos. 1 and 2.		
Parish of Murroes	1	Occupation road.
Do.	2	Arable field.
Do.	6	Water pipe.
WORKS Nos. 3 and 4.		
Parish of Panbride	1	Arable field.
Do.	2	Road and margins.
Do.	3	Water main pipe.
Do.	4	Arable field.
Do.	5	Water main pipe.
Do.	7 7	Ditch or watercourse.
Do.	9	Ditch or watercourse.

Printed by EYRE and SPOTTISWOODE,
FOR
ROWLAND BAILEY, Esq., M.V.O., I.S.O., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
WYMAN AND SONS, LTD., FETTER LANE, E.C.; or
OLIVER AND BOYD, EDINBURGH; or
E. PONSONBY, 116, GRAFTON STREET, DUBLIN.