CHAPTER clxxxi.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Kelso Water. [16th December 1911.]

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WHEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners 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 Kelso Water Order Confirmation Act 1911.

[*Price* 2*s.* 3*d.*]

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SCHEDULE.

KELSO WATER.

Provisional Order to authorise the Provost Magistrates and Councillors of the Burgh of Kelso to provide an additional water supply and to construct and maintain new waterworks and for other purposes.

WHEREAS the water supply for the burgh of Kelso (herein-after called "the burgh") in the county of Roxburgh was introduced in the year one thousand eight hundred and sixty-four by the then town council of the burgh under the provisions of the General Police and Improvement (Scotland) Act 1862 and an extension was made in the year one thousand nine hundred and five:

And whereas the said Act of 1862 was repealed by the Burgh Police (Scotland) Act 1892 and the affairs of the burgh including the existing waterworks and water supply are now managed and administered by the provost magistrates and councillors thereof (herein-after called "the Town Council") under among others the Burgh Police (Scotland) Acts 1892 to 1903 and the Town Council are also the local authority within the burgh under the Public Health (Scotland) Act 1897:

And whereas the present supply of water is unsuitable and insufficient for the wants and health and convenience of the inhabitants of the burgh and the Town Council have been required by the Local Government Board for Scotland to provide without delay an adequate supply of wholesome water:

And whereas it is expedient that a better and more abundant supply of water should be provided to the burgh and that the Town Council should be empowered to introduce the same and for that purpose to acquire lands and construct and maintain additional waterworks:

And whereas it is expedient that the limits within which the Town Council are required to give a supply of water should be defined and that they should be authorised to supply water beyond such limits:

And whereas it is expedient that further powers should be conferred on the Town Council in relation to their waterworks and water supply as herein-after provided:

And whereas it is expedient that the Town Council should be authorised to raise money by rates assessments and charges and by borrowing for the purposes of this Order and of their water supply in accordance with the provisions in that behalf of the Burgh Police (Scotland) Acts 1892 to 1903 and this Order:

And whereas it is expedient that provision should be made for the repayment of any money to be borrowed under the authority of this Order:

And whereas estimates have been prepared by the Town Council for the construction and completion of the said additional waterworks and other works and for the purchase of lands as follows:—

	£
For the purchase of lands and servitudes - -	1750
For storage and service reservoirs embankments waste weir and gauge well - - - -	9000
For road of access and diversion of path or road	2050
For main conduit or line of pipes branch piping valves valve chambers and drains - - -	17200

And whereas the said several works included in the said estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas plans and sections showing the lines and levels of the waterworks authorised by this Order and also a book 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 office at Jedburgh of the principal sheriff clerk of the county of Roxburgh and are herein-after 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:

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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 Kelso Water Order 1911 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 the burgh of Kelso according to the boundaries thereof 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 1903;

"The sheriff" means the sheriff of the counties of Roxburgh Berwick and Selkirk or any of his substitutes;

"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 and embankments 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 wholly within the county of Roxburgh in the lines and according to the levels shown on the deposited plans and sections the works herein-after described or some of them or some part or parts thereof (that is to say):—

(1) A reservoir (Work No. 1) on the line of the stream known as Heatherhope Burn wholly situate in the parish of Hownam and county of Roxburgh commencing at a point on the said stream six hundred and fifty-five yards or thereby measured in a south-easterly direction from the south-eastern corner of the shepherd's house known as Heatherhope and terminating by an embankment to be constructed and formed across the said Heatherhope Burn at a point four hundred and thirty-three yards or thereby measured in a north-westerly direction from the said point of commencement which embankment will commence at a point forty-seven yards or thereby in a south-westerly direction and will terminate at a point twenty-nine yards or thereby in a north-easterly direction both measured from the centre of the said Heatherhope Burn where that burn will be crossed by such embankment:

(2) A road of access (Work No. 2) to the said reservoir wholly situate in the parish of Hownam and county of Roxburgh commencing at a point two hundred and twenty-six yards or thereby measured in a south-easterly direction from the south-east corner of the shepherd's house known as Heatherhope and terminating by a junction with the road from Greenhill to Kelso at a point eighty yards or thereby measured in a northerly direction from the north-west corner of the house known as Greenhill:

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(3) A conduit or line of pipes (Work No. 3) commencing in the parish of Hownam in the intended reservoir (Work No. 1) herein-before described at a point two hundred and forty yards or thereby measured in a south-easterly direction from the south-east corner of the shepherd's house known as Heatherhope and terminating in the parish of Kelso and burgh of Kelso at a point thirty yards or thereby measured in a southerly direction from the north-west corner of the town hall:

(4) A service reservoir or tank (Work No. 4) wholly situate in the parish of Kelso and county of Roxburgh in the field numbered 55 on the 25-inch Ordnance Survey map of the parish of Kelso marked second edition 1898:

(5) A diversion of the occupation path or road (Work No. 5) wholly situate in the parish of Hownam and county of Roxburgh commencing at a point one hundred and thirty yards or thereby measured in a south-easterly direction from the south-east corner of the shepherd's house known as Heatherhope and terminating at a point four hundred and sixty-eight yards or thereby measured in a south-easterly direction from the said point of commencement.

Power to make subsidiary works.

5. The Town Council in addition to the waterworks authorised by this Order and in connexion therewith may upon or in the lands 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 catch-water drains outlets outfalls drains aqueducts tunnels culverts channels cuts mains pipes meters adits shafts conduits valves engines machinery buildings telegraphs telephones posts wires and other works and conveniences as may be necessary or convenient in connexion 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 any telegraphs telephones posts wires and other works made erected or maintained by the Town Council shall not be used in contravention

of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869.

Power to deviate laterally and vertically.

6. The Town Council 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 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 in constructing such works 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.

7. 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 authorise any interference with electric telegraphic or telephonic apparatus or other property

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of His Majesty's Postmaster-General Provided also 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.

As to private rights of way over lands taken compulsorily.

8. 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.

For protection of National Telephone Company Limited.

9. For the protection of the National Telephone Company Limited (in this section referred to as "the telephone company") the following provisions shall apply and have effect (that is to say):—

(1) The Town Council shall not at any time during the currency of the telephone company's licence from the Postmaster-General to conduct telephonic business remove or interfere with any poles wires pipes conduits or other apparatus (in this section referred to as "apparatus") of the telephone company situate on any lands acquired by the Town Council under the powers of this Order except where the Town Council require so to do for the purposes of their undertaking and in such case the Town Council shall at their own expense prior to any such interference provide substituted apparatus in such positions as may be reasonably approved by the telephone company and if at any time during the currency of the said licence the Town Council shall require to remove or interfere with such substituted apparatus they shall provide other substituted apparatus in accordance with the foregoing provisions of this section:

(2) If any difference arises under this section between the Town Council and the telephone company such difference shall be settled by an arbiter to be appointed on the application of either party by the Board of Trade.

For protection of North British Railway Company.

10. The following provisions for the protection of the North British Railway Company (herein-after 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) The Town Council shall not under the powers of this Order take or acquire by compulsion any lands or property of the company but shall be entitled to purchase and acquire by agreement or compulsorily such servitude in under over or upon the lands property and works of the company as may be required for making and maintaining in accordance with the provisions of this Order the conduit or line of pipes (Work No. 3) (herein-after in this section called "Conduit No. 3") by this Order authorised:

(2) Before commencing the construction under the powers of this Order of Conduit No. 3 in so far as affecting the lands property or works of the company the Town Council shall submit plans sections and specifications thereof to the company for their approval and Conduit No. 3 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 maintained by the Town Council to his reasonable satisfaction 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 twenty-eight 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 Conduit No. 3 during execution or in connexion with the maintenance or repair thereof at any time or in protecting their property during or in connexion with the construction maintenance or repair of Conduit No. 3 shall be repaid to them by the Town Council Provided also that when any works in connexion with Conduit No. 3 interfere with the lines of rails or works of the company they shall have the option of carrying out such works with their own men at the reasonable expense of the Town Council:

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(3) The works and operations of the Town Council under this Order shall be constructed executed and maintained so as not injuriously to affect any structure or other work belonging to the company or to cause any injury thereto or to any railway of the company or any interruption to the passage or conduct of traffic on any such railway and if any injury or interruption shall arise from or be in any way owing to the works or operations of the Town Council or the bursting leakage or failure of Conduit No. 3 or other works or any of them 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:

(4) 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 any bridge or other work railway or siding 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 Conduit No. 3 which may arise from such maintenance repair alterations or reconstruction 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 twenty-eight days notice in writing to the Town Council before commencing any such operations and the same 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:

(5) 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 bridges railways sidings or other works

by reason of the construction use existence or maintenance of Conduit No. 3 and such extra expense if any shall be determined by the arbiter appointed as herein-after in this section mentioned:

(6) 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 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 Kelso District Committee.

11. In the execution of the works and the exercise of the powers by this Order authorised and conferred so far as they affect highways under the management of the Kelso District Committee of the county council of the county of Roxburgh the following provisions for the protection of the Kelso District Committee (in this section called "the district committee") shall (except so far as otherwise agreed to between the Town Council and the district committee) have effect (that is to say):—

(1) All aqueducts conduits or lines of pipes to be laid in or along any county highway or in upon or across any county bridge shall as far as practicable be laid in such position in or at the side thereof as the district committee in writing under the hand of their surveyor may reasonably direct:

(2) The provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall extend and apply to all county highways and county bridges opened and broken up or interfered with by the Town Council in the exercise of the powers of this Order provided that the notice required by section 30 of that Act shall not be less than seven days instead of three days:

(3) The plan required by section 31 of the last-mentioned Act shall be accompanied by a section of the proposed works and a short specification thereof and shall be delivered to the district committee or their surveyor by the Town Council in the case of a county bridge

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not less than one month and in all other cases fourteen days before they commence to break or open up any county highway or interfere with any county bridge for the purpose of executing the works:

(4) No greater length than one hundred and fifty yards of any county highway shall be broken up at any one place at one time without the consent of the district committee A clear and sufficient carriageway shall if practicable be kept for the passage of carriages and traffic along every county highway and county bridge during any interference therewith by the Town Council unless where by arrangement with the district committee a county highway or county bridge may be shut up and in case of default in compliance with this provision the district committee may by their own servants and workmen clear any such carriageway and may recover the expenses of and incident thereto from the Town Council:

(5) Nothing in this Order shall authorise the Town Council to interfere with the structural part of any county bridge without the consent in writing of the surveyor of the district committee which consent shall not be unreasonably withheld and may be given upon such conditions as the district committee may reasonably determine Provided that the district committee shall be deemed to have given such consent required under this subsection and under subsection (1) of this section if within one month after plans have been submitted to their surveyor he shall not have given written notice to the Town Council objecting thereto:

(6) Nothing in this Order contained shall interfere with the right of the district committee to alter the level of or divert or improve in any manner they think fit any county highway in or along which any aqueduct conduit or line of pipes of the Town Council shall have been laid and the Town Council shall forthwith on receiving notice in writing under the hand of the clerk of the district committee alter the position of any such aqueduct conduit or line of pipes in the manner and to the extent prescribed by such notice or as in the case of difference shall be determined

by arbitration in the manner herein-after in this section provided:

(7) Nothing in this Order contained shall interfere with the right of the district committee at any time or times to remove alter or rebuild any county bridge or the approaches thereto over near or attached to which any aqueduct conduit or line of pipes of the Town Council is carried in the same manner as they might have removed altered or rebuilt any such bridge or the approaches thereto if this Order had not been confirmed and such aqueduct conduit or line of pipes had not been constructed or laid over or near or attached to such bridge and in the event of any such bridge or the approaches thereto over or near or attached to which any such aqueduct conduit or line of pipes is laid being removed altered or rebuilt as aforesaid the Town Council shall at their own cost alter the position of such aqueduct conduit or line of pipes and any works by which such aqueduct conduit or line of pipes is carried over or near or attached to such bridge or the approaches thereto as aforesaid Provided that during the removal alteration or rebuilding of such bridge as aforesaid the district committee shall afford all reasonable facilities for temporarily carrying such aqueduct conduit or line of pipes across or along any road or stream or river so as not to interrupt the continuous supply of water or to diminish the pressure of such supply through such aqueduct conduit or line of pipes:

(8) All works shall be so executed by the Town Council as not to stop the traffic and so far as reasonably practicable not in any way to impede or interfere with the traffic on any highway or over any county bridge or the approaches thereto:

(9) The district committee shall not except in the case of their negligence be liable for or in respect of any damage or injury done to any work of the Town Council by reason of such work being laid at a depth below the surface of any highway insufficient for its protection from injury arising from the reasonable use of any steam or other roller or traction engine

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for the repair of such county highway or from the passage of the traffic in such highway or in repairing any county bridge or the approaches thereto:

(10) The Town Council shall fix hydrants not exceeding eight in number on the road between Hownam and Kelso wherein the water mains of the Town Council are laid and at points to be named by the district committee subject to the approval of the Town Council to enable the district committee to obtain water for the purposes of road making and maintenance for such price and upon and subject to such terms and conditions as to supply of water as failing agreement may be determined by arbitration in manner herein-after in this section provided Provided that such hydrants shall not be affixed directly to the main pipe but on branches at the side thereof:

The district committee shall fix and use on every implement used by them for taking water as aforesaid a proper meter or measuring instrument such meter or measuring instrument to be first approved of by the water engineer of the Town Council and shall keep such meters or measuring instruments in good repair and working order to the reasonable satisfaction of the said engineer and open to his inspection and examination at all reasonable times The district committee shall send to the Town Council once at least in every month a certificate of the quantity of water used and the number and situation of the hydrant from which the water had been taken:

(11) For the purposes of section 57 of the Roads and Bridges (Scotland) Act 1878 and section 24 of the Local Government (Scotland) Act 1908 the Town Council shall be deemed to be the person by whose order any excessive weight shall have been passed or any extraordinary traffic conducted on the county highways in connexion with the execution of the works by this Order authorised:

(12) If any difference arise between the district committee and the Town Council touching this section or anything to be done or not to be done thereunder such

difference shall failing agreement be referred to the decision of an arbiter to be named (failing agreement of the parties to name an arbiter) by the sheriff on the application of either party and the decision of such arbiter shall be final and the costs shall be in the discretion of such arbiter.

Power to take water.

12. 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 waterworks 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 stream known as Heatherhope Burn and all tributary streams springs and waters flowing or which naturally arise or drain or flow within and into the said burn and the said reservoir above the embankment (Work No. 1) 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 herein-after mentioned.

Temporary restriction as to taking water.

13. Until the reservoir authorised by this Order is completed and filled the Town Council shall not appropriate and take the waters of the said burn unless a flow of water at the rate of two hundred thousand gallons per diem is passing down Heatherhope Burn at the point of abstraction on that burn but in the event of such flow exceeding the said quantity the Town Council may for the said purposes appropriate take and divert into their said works or any of them the remainder of the water flowing in the said burn Provided that the Town Council shall place a gauge weir across the said burn at or near the point of abstraction on that burn through an aperture in which the said quantity of two hundred thousand gallons per diem shall be ascertained to be flowing down the said burn and shall maintain such gauge while and so long as the same shall be required for the purpose aforesaid.

Compensation water.

14.—(1) The Town Council shall so soon as the aforesaid reservoir is completed and filled discharge or allow to flow as

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compensation water into the Heatherhope Burn a uniform and continuous flow of water of not less than two hundred thousand gallons during the twenty-four consecutive hours of every day.

(2) Such compensation water to be discharged into the said Heatherhope 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 Heatherhope Burn below the point of discharge for the waters appropriated by this Order Provided that in the event of the Town Council abstracting more than three hundred and fifty thousand gallons a day of twenty-four hours by or through the conduit or line of pipes by this Order authorised they shall discharge or allow to flow into the Heatherhope Burn as further compensation water an additional quantity at the rate of one thousand gallons for every two thousand gallons so abstracted in excess of the said quantity of three hundred and fifty thousand gallons.

(3) The Town Council shall for the purpose of ascertaining the amount of the compensation water to be daily discharged as aforesaid into Heatherhope Burn before impounding any of the said waters construct and maintain immediately below the foot of the outer slope of the embankment of the said reservoir (Work No. 1) a suitable and sufficient measuring gauge or other apparatus over or through which such compensation water shall flow or be discharged into Heatherhope Burn And such gauge or other apparatus aforesaid shall be open to the inspection and examination of the commissioners appointed under the Tweed Fisheries Act 1857 and acting in the execution of that Act and the Tweed Fisheries Amendment Act 1859 (herein-after called "the Tweed Commissioners") and all persons having an interest in the said compensation water or persons duly authorised by them on their behalf at all reasonable times.

(4) The Town Council shall also for the purpose of ascertaining the quantity of water daily appropriated for the purposes of water supply (other than compensation water) before impounding any of the said water construct and maintain a suitable and sufficient measuring gauge or other apparatus over or through which such water shall flow or be discharged and such measuring gauge or other apparatus shall be open to the inspection and examination of the Tweed Commissioners and all persons having an interest in the said compensation water or

persons duly authorised by them on their behalf at all reasonable times.

(5) In case of any neglect on the part of the Town Council to maintain the gauges or other apparatus referred to in this and the immediately preceding 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 (including the Tweed Commissioners) 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.

(6) 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 or the immediately preceding 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 use lands already acquired.

15. The Town Council may hold retain and use for the purposes of their water undertaking any lands already acquired for the purposes of their existing waterworks.

Power to acquire lands.

16. 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 this Order.

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

17. And whereas in the exercise of the powers of this Order it may happen that portions only of the lands houses buildings or manufactories shown on the deposited plans may be sufficient for the purposes of this Order or any of them and that such portions may be severed from the remainder of the said properties without material detriment thereto Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the lands houses buildings or manufactories described in the schedule to this Order annexed and whereof portions only are required for the purposes of this Order may (if such portions can in the opinion of the jury arbiters or other authority to whom the

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question of disputed compensation shall be submitted be severed from the remainder of such properties without material detriment thereto) be required to sell and convey to the Town Council such portions only without the Town Council being obliged or compellable to purchase the whole or any greater portion of such properties the Town Council always paying for the portions taken by them and making compensation for any damage sustained by the owners of such properties and other persons interested therein by severance or otherwise.

Persons under disability may grant servitudes &c.

18. 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.

Power to acquire servitudes only for line of pipes.

19. The Town Council may in lieu of acquiring any lands for the purposes of the conduit or line of pipes by this Order authorised where the same is 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 pro-

visions 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.

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

20.—(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 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 lands 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 connexion with their waterworks undertaking or for farm buildings.

Reservation of water rights on sale.

21. The Town Council on selling any lands acquired for or in connexion 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

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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.

22.—(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.

23. 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.

24. If the works authorised by this Order are not completed within six 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.

Lands for extraordinary 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 connexion 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 building which may be required in connexion 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

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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 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 service reservoirs or tanks of the Town Council already existing or by this Order authorised from which the supply is given.

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 six years from and after the commencement of this Order or until the waterworks authorised by this

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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.

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 connexion disconnexion 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.

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Contracts 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 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.

Supplying water to Kelso District Committee.

45. The Town Council shall on receiving not less than six months notice in writing from the Kelso District Committee of the county council of the county of Roxburgh give to the said district committee out of any surplus water which may exist after supplying the needs of the limits of compulsory supply and of any persons outwith the said limits with whom arrangements may already have been made at the time of receiving such notice a supply of water not exceeding thirty thousand gallons per day of twenty-four hours for domestic purposes only for use within the limits of any special water supply district formed or to be hereafter formed within the district of the said Kelso District Committee or for the use of any house or houses within the said Kelso District although such house or houses may not at the time be situated within the limits of any special water district Provided that any supply to be given to the said district committee under this section shall be passed through a meter to be fixed on the conduit or line of pipes of the Town Council and maintained by the Town Council at the expense of the said district committee the branch pipes from the said meter to be laid at the expense of the said district committee And provided further that such supply of water shall be paid for by the said district committee to the Town Council at a price per one thousand gallons to be fixed failing agreement by an arbiter to be named on the application of either party by the sheriff and such arbiter shall take into account in fixing the said price per one thousand gallons the cost of water to the ratepayers within the limits of compulsory supply over the whole period of the indebtedness to be incurred by the Town Council under this Order in such manner that such price shall not be less than the estimated cost of water per one thousand gallons within the limits of compulsory supply with the addition of fifteen per centum.

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

46. 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 two immediately preceding sections 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.

47. The charge for the supply of water under the three 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.

48. 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 with respect to any such roads as are beyond the burgh 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

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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.

49. The Town Council may subject to the provisions 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 one thousand seven hundred and fifty pounds;

(2) For the construction of storage and service reservoirs embankments waste weir gauge well road of access and diversion of path or road eleven thousand and fifty pounds;

(3) For the construction of main conduit or line of pipes branch piping valves valve chambers and drains seventeen thousand two hundred pounds; and

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

Periods for repayment of borrowed money.

50. 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 (herein-after 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 forty years from the date or dates of borrowing the same; and

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.

51. 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.

52.—(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

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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 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 five years after the commencement of this Order or within one year after the completion of the works and the introduction of the water supply from the said works authorised by this Order whichever shall be the earlier.

Power to re-borrow.

53. 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 it shall be lawful for the Town Council again to borrow the amount so paid off upon the same securities as

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those upon which the moneys so paid off were secured and so from time to time.

Town Council may borrow on cash account.

54. 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 sum due and owing to 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 sum by this Order authorised to be borrowed.

Borrowing power for current expenses.

55. 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.

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

57. 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 seven 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.

58. 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 in Scotland pronounced in a summary application presented for that purpose.

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

59. 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.

Application of moneys borrowed.

60. 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.

Reservation of prior mortgages.

61. 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

Protection of lender from inquiry.

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see to the application or be answerable for any loss or non-application of such money or any part thereof.

For appointment of a judicial factor.

62. 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 three thousand pounds.

Existing waterworks and new works to form one undertaking.

63. 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.

64. 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.

SCHEDULE referred to in the foregoing Order.

LANDS HOUSES BUILDINGS AND MANUFACTORIES OF WHICH PORTIONS ONLY MAY BE TAKEN WITHOUT TAKING THE WHOLE.

Parish.	Numbers on deposited Plans.	Description of Property.
Hownam - - -	4	Dwelling house byre and outhouse
" - - -	5	Garden ground
Linton - - -	4	Mill lead banks of lead and footpath
" - - -	6	Arable land and mill lead
" - - -	7	Arable land and mill leads
" - - -	8	Garden ground
" - - -	10	Pasture land road and stream
" - - -	11	Pasture land and stream
Kelso - - -	11	Railway linesplatform and slopes
" - - -	12	Sloping ground gangways coach house and yard.

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